

17-37-101. Title.

This chapter shall be known by the short title of "Arkansas Pest Control Law".

17-37-102. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Agent" means any person registered with the board, by a licensed operator, to solicit or sell pest control service, which the operator is licensed to perform. Including the signing of contracts, making inspections for the purpose of servicing or continuing contracts, and supervising workers and working crews in carrying out pest control service, when so designated by the licensed operator, or except as may be limited by the State Plant Board in its rules and regulations made under authority of this chapter. This is not to be construed as relieving the licensed operator in any way of being responsible for personal and direct supervision of all work performed under his license;
- (2) "Applicant" means any person making application for a license to engage in pest control service work.
- (3) "Board" means the State Plant Board;
- (4) "Commercial applicator" means a person who has demonstrated, by written examination, his knowledge of the nature and effect of pesticides and how to use, supervise the use, or demonstrate the use of restricted-use pesticides, as defined by the Federal Insecticide, Fungicide, and Rodenticide Act, safely and properly. Qualification as a commercial applicator shall be integral to qualification as a licensed operator or qualified operator and vice versa;
- (5) "Director" means the Director of the State Plant Board;
- (6) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which classifies, regulates, and provides for the certification of all users of restricted-use pesticides, as defined in that act, including all persons who engage in commercial and noncommercial pest control service work;
- (7) "Fungi or rot control responsibility" means that the license holder or licensed operator shall be held responsible for fungi or rot control only on substructure timbers such as sills, sub-sills, piers, floor joists, sub-floors, and floors;
- (8) "Household pest and rodent" means any mammal, bird, arthropod, or reptile that may infest or invade a home or other buildings or the immediate area around or under a home or buildings, other than wood-damaging or wood-destroying insects, fungi, or organisms;
- (9) "License holder" means the person, firm, or corporation to which a license is issued, the person being himself a licensed operator or there being one (1) or more licensed operators in the employ of the person, firm, or corporation;
- (10) "Licensed operator" means a person who has fully qualified and has passed the board's written examination and has in force a valid license from the board to engage in the work indicated in the license. The person shall also have met the requirements of and be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act and state law as a commercial applicator;

- (11) "Noncommercial applicator" means any person who uses, supervises the use of, or demonstrates the use of a restricted-use pesticide in any classification on his own or his employer's property who does not hold himself out as being engaged for compensation in pest control service work;
- (12) "Person" means an individual, firm, partnership, corporation, organization, association, or any combination thereof, whether or not incorporated;
- (13) "Pest control service" means any person who, for compensation, gives advice or engages in work to prevent, control, or repel arthropods, mammals, birds, reptiles, or wood-damaging or wood-destroying organisms that may invade or infest homes, other buildings, or similar structures and shall include arthropods, mammals, birds, reptiles, weeds, and plant diseases that may invade, infest, or infect shade trees, shrubs, lawns, turf, and pecan groves. This term shall also include any person who issues letters of clearance, or who shall solicit such work in any manner, but the term shall not be construed to include agricultural crops from planting to harvest other than those mentioned above;
- (14) "Qualified operator" means a person who has fully qualified and has passed the board's written examination working under the bond and insurance of a license holder or licensed operator instead of his own. The person shall also have met the requirements of and be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act and state law as a commercial applicator;
- (15) "Soil pretreatment" means chemical treatment of the soil before or during construction of any building for the purpose of preventing or controlling subterranean termites;
- (16) "Solicitor" means any person registered with the board by a licensed operator to solicit or sell pest control service work, which the operator is licensed to perform. A solicitor may not perform any pest control service work nor be placed in charge of workers or working crews;
- (17) "Supervise" or "under the direct supervision of" means the act or process whereby the application of a pesticide is made by a competent and registered person acting under the instructions and control of a licensed operator or qualified operator who is responsible for the actions of that person and who is available if and when needed, even though the operator is not physically present at the time and place the pesticide is applied;
- (18) "Termite and other structural pests" means any wood-damaging or wood-destroying insect, fungus, or organism;
- (19) "Termite infestation" means any active termites found in or on a building, its foundation or attached appurtenances, or under the building, in or on debris, or in or on stumps under the building; and
- (20) "Weed control" means the prevention, destruction, or removal of any plant from where it is not wanted by the use of herbicides.

17-37-103. Penalties.

- (a) The violation of any of the provisions of this chapter or any of the rules and regulations of the board promulgated under this chapter shall be deemed a misdemeanor.
- (b) Upon conviction, an offender shall be punished by a fine of not less than fifty dollars (\$50.00) for the first offense, not less than one hundred dollars (\$100) for the second offense, and not less than two hundred dollars (\$200) plus ten (10) days in jail for each offense thereafter, with no suspension of fines or imprisonment.

17-37-104. Injunctions.

- (a) The board is authorized to apply to any court of competent jurisdiction for, and the court, upon hearing and for cause shown, may grant, a temporary or permanent injunction restraining any person from violating any provisions of this chapter or of the rules and regulations made under the authority of this chapter.
- (b) The injunction is to be without bond.

17-37-105. Administration.

- (a)(1) The board is vested with the authority to carry out the provisions of this chapter, including the employment of necessary personnel.
- (2)(A) The board shall have the authority to adopt rules and regulations which shall have the full force and effect of law for the purpose of carrying into effect the provisions of this chapter.
- (B) The rules and regulations may include the authorization to require licensed operators to submit written monthly reports setting out the description and location of properties on which pest control service has been rendered and such other information relative thereto as the board shall deem necessary.
- (C) The rules and regulations may include minimum standards for pest control service work and shall include fees sufficient to pay the cost of carrying out the provisions of this chapter.
- (b) The board or its authorized representative may enter upon and inspect properties, plants, or products for the purpose of carrying out the provisions of this chapter and of carrying out the rules and regulations made pursuant to this chapter.

17-37-106. Prior rules and regulations.

The rules and regulations made under authority of Acts 1965, No. 111 [repealed], shall continue in force and have the effect of law under authority of this chapter, except that those parts that may be in conflict with this chapter shall be considered invalid, and except as subsequently amended, invalidated, or added to by the board.

17-37-107. Fees.

- (a) In its rules and regulations made pursuant to this chapter and after a public hearing, the board shall establish license, registration, inspection, reinspection, reporting, and examination fees sufficient to carry out the provisions of this chapter.
- (b) All fees collected under this chapter shall be deposited in the State Treasury to the credit of the board and are to be used in carrying out the provisions of this chapter.

17-37-201. License requirement.

- (a) No person shall, for compensation, engage in pest control service work in any manner as defined in this chapter without first having qualified, including the passing of the board's written examination, and having in force a valid license issued by the board for that purpose.
- (b) It shall be unlawful for any person other than a licensed operator, qualified operator, noncommercial applicator, or persons working under their direct supervision to use restricted-use pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act.

17-37-202. Exemption for unlicensed operators under supervision of license holders.

- (a) Persons who are not licensed as pest control operators under this chapter, but who worked as an unlicensed pest control operator prior to November 1, 1984, under the direct supervision of a holder of a license under this chapter, and who are working for such a license holder on June 28, 1985, may continue that arrangement without complying with this chapter.
- (b) At the time such unlicensed pest control operators terminate their relationship with the license holder, the unlicensed pest control operators shall not thereafter perform services as pest control operators unless and until they have qualified under this chapter. However, when the licensed manager of a pest control company terminates his employment with the company, and if the company had been in operation at least one (1) year prior to the date of termination, the pest control company may continue to operate for a period not to exceed six (6) months after the date of termination, notwithstanding that the manager was the only licensed personnel in the company.

17-37-203. Exemptions for noncommercial applicators - Limitations.

- (a)(1) This chapter shall not apply to persons doing pest control to their own property, or to their employees hired as laborers only, who do not hold themselves out as being engaged for compensation in pest control service work
- (2)(A) However, no noncommercial applicator shall use, supervise the use of, or demonstrate the use of a restricted-use pesticide, as defined by the Federal Insecticide, Fungicide, and Rodenticide Act, unless the person has passed a prescribed examination and has been licensed by the State Plant Board.
- (B)(i) The examination shall demonstrate the applicant's knowledge of how to apply pesticides under the classifications applied for and his knowledge of the nature and effect of the pesticides.
- (ii) If the applicant is found qualified and has paid the required examination and license fees, the board shall issue a noncommercial applicator license limited to such activities and classifications as qualified for.
- (C)(i) The license shall expire June 30 each year unless suspended or revoked prior thereto for cause.
- (ii) Reexamination prior to license renewal may be required to ensure a continuing level of competence and ability to use restricted-use pesticides safely and properly as technology changes.
- (b) Except for the requirements stated in this section, the noncommercial applicator shall be exempt from all other requirements of this chapter.

17-37-204. Occupational licenses, etc.

No occupational license, authorization, or similar license taxes shall be issued by municipalities, counties, or other state or federal agencies, or subdivisions thereof, to any person to engage in pest control service work for compensation, unless the person holds a valid license issued by the board to do that work.

17-37-205. Applicants previously convicted of violations.

Nothing in this chapter shall require the board to issue a license or registration to an applicant who has been convicted in a court for a violation of this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act.

17-37-206. License application.

- (a) Any person desiring to obtain a license for pest control service work shall make application to the board on forms provided by the board, giving complete information requested.
- (b) The applicant must prove to the satisfaction of the board that he is morally and financially responsible.
- (c) An applicant must show proof of at least one (1) year of experience in the classification for which a license is desired or have completed at least two (2) years of work in an accredited college or university, including the completion of at least one (1) basic course in entomology, to be eligible to take the examination in either of the following classifications:
 - (1) Termite and other structural pests; or
 - (2) Household pests and rodent control.
- (d)(1) To demonstrate the ability of the applicant to perform the classification of work for which a license is desired and to demonstrate his knowledge of the nature and effect of pesticides and how to apply them safely and properly, the board shall prescribe in advance an examination in writing to be taken by the applicant and to be given by a person designated by the board who is not interested financially or otherwise in pest control service work in Arkansas.
- (2) This representative shall examine the applicant by a written examination as prescribed, and the examination shall be graded by the examiner with the results being certified to the board for approval either as having passed or failed the examination as the case may be.
- (e)(1) The board is directed to give examinations on various classifications of pest control work on designated dates at least once each quarter.
- (2) If the applicant is found qualified in one (1) or more of the classifications, he may be licensed to do the classification of work for which he is found qualified upon the payment of the required fees.
- (f) By virtue of these qualifications, the applicant shall be eligible for certification under the Federal Insecticide, Fungicide, and Rodenticide Act, or state law as a commercial applicator.
- (g) By regulation, the board shall make provisions to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.
- (h) Any licensee who fails to renew his license for a period of two (2) years shall be required to

follow the same procedure as a new applicant in obtaining another license.

17-37-207. License classification.

- (a) The license shall specify the classification of work in which the license holder is authorized to engage and shall show the name and address of the person, firm, or corporation to which it is issued and the name of the licensed or qualified operator, if he is someone other than the license holder.
- (b)(1) The license holder shall do only the kind of work specified in the classification for which he has been licensed, regardless of whether for compensation or not.
- (2) Any licensee performing any work in any classification for which he has not been licensed shall suffer invalidation of the license in any other classification.
- (c)(1) The board may classify or subclassify commercial and noncommercial licenses to be issued under this chapter as may be necessary for the effective administration and enforcement of the chapter.
- (2) The classifications may include, but not be limited to:
 - (A) Industrial, institutional, structural, and health-related;
 - (B) Ornamental and turf;
 - (C) Agricultural; and
 - (D) Noncommercial applicators.
- (3) Separate subclassifications may be specified as to methods used by any licensee to apply pesticides or to the use of pesticides to control insects and plant diseases, rodents, or weeds.
- (4) Each classification shall be subject to separate testing procedures and requirements.

17-37-208. Licensing standards.

- (a) In promulgating regulations under this chapter, the board shall prescribe standards for the licensing of applicators of pesticides.
- (b) The standards shall relate to the use and handling of the pesticides or to the use and handling of the pesticide or class of pesticide covered by the individual's license and shall be relative to the hazards involved.
- (c)(1) In determining standards, the board shall consider the characteristics of the pesticide formulation such as:
 - (A) The acute dermal and inhalation toxicity;
 - (B) The persistence, mobility, and susceptibility to biological concentration;
 - (C) The use experience which may reflect an inherent misuse or an unexpected good safety record which does not always follow laboratory toxicological information;
 - (D) The relative hazards of patterns of use such as granular soil applications, ultra low volume or dust aerial applications, or air blast sprayer applications; and
 - (E) The extent of the intended use.
- (2) Further, the board shall take into consideration standards of the Environmental Protection Agency and is authorized to adopt by regulation these standards.

17-37-209. Eligibility for reexamination.

Any applicant who fails to pass the written examination in any classification must wait at least three (3) months before being eligible to take another examination in the same classification.

17-37-210. Bond and insurance requirements.

(a) BOND.

(1) Before a license is issued or renewed, the board shall be furnished an acceptable surety bond by each applicant for a license in either of the following classifications:

- (A) Termite and other structural pests; or
- (B) Household pests and rodent control.

(2)(A) The bond shall be executed by the applicant as principal and by a surety company licensed to do business in this state in the surety amount of fifty thousand dollars (\$50,000).

(B) The bond shall be for the term of not to exceed one (1) year and shall coincide with the licensing period.

(3)(A) Any bond required by this chapter shall be in favor of the State of Arkansas for the benefit of any person damaged as the result of a violation of this chapter by any operator licensed under this chapter and for the benefit of any person who, after entering into a contract with the licensee, is damaged by the failure of the licensee to properly perform the contract.

(B) Any person claiming against the bond may maintain an action at law against the licensee and the surety.

(C) The aggregate liability of the surety to all persons shall in no event exceed the sum of the bond.

(b) INSURANCE.

In addition to the bond required in subdivision (a)(1), before a license is issued or renewed, each applicant for a license in the classification of termite and other structural pests, the classification of household pests and rodent control, or the classification of general fumigation shall furnish the board a certificate of insurance, written by an insurance company authorized to do business in this state, covering the public liability of the applicant for personal injuries, for not less than twenty-five thousand dollars (\$25,000) for any one (1) person, and fifty thousand dollars (\$50,000) for any one (1) accident and not less than five thousand dollars (\$5,000) for property damage.

(c) CANCELLATION.

(1) The bond and insurance shall not be canceled or terminated until at least thirty (30) days after a notice of cancellation is received by the board.

(2) Upon failure of a licensee to maintain in full force and effect the bond and insurance required by this section, the license shall become void and shall not be reinstated until a satisfactory bond and insurance have been filed.

17-37-211. Issuance fee - License expiration.

The fee for the issuance of a license in each classification shall be paid annually. The license shall expire June 30 following the date issued.

17-37-212. Transferability - Change in licensee status.

- (a) No license or registration shall be transferable.
- (b) When there is a change in the status of a licensee, such as change of address, operator in charge, agents, or solicitors, the licensee shall immediately notify the board of the changes.

17-37-213. Agents and solicitors generally.

- (a) Each licensed operator shall register with the board the name and address of each agent or solicitor and shall pay to the board a registration fee annually for each solicitor and agent, at the time of registration.
- (b) All registrations shall expire when the license expires.
- (c) In all cases where a solicitor or agent violates the provisions of this chapter or the rules and regulations made under authority of this chapter, the violations shall be grounds for invalidation of the license held by the operator under which the solicitor or agent had been registered.

17-37-214. Nonresident licensee - Resident agent.

Every nonresident licensee shall designate a resident agent upon whom service of notice or process may be made to enforce the provisions of this chapter or any liabilities arising from operation under this chapter.

17-37-215. Operator's name.

- (a) No licensed operator or qualified operator shall operate under more than one (1) company name in any one (1) category.
- (b) No person shall issue a solicitor's or agent's license to any other person for the purpose of operating under any other name except that of the licensed operator who registers the solicitor or agent with the board.
- (c) All work shall be performed in the name of the licensed operator or his firm. All contracts, statements, bids, and letters shall be in his name and on his forms, and each agent shall drive vehicles lettered with the name of the licensed operator or his firm.

17-37-216. Refusal to issue license.

The board shall have the authority to refuse the issuance of a license even though a passing grade is made on the written examination if the board, in its judgment, after reviewing the evidence of reference checks, deems the applicant is not morally and financially responsible.

17-37-217. Grounds for license invalidation or nonrenewal.

Acts which shall be grounds for invalidation or nonrenewal of a license shall include, but shall not be limited to, the following:

- (1) Misrepresentations for the purpose of deceiving or defrauding;
- (2) Making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage;
- (3) Failure of the licensee to supply the board or its authorized representative, upon request, with true and accurate information concerning methods and materials used or work performed or other information essential to the administration and enforcement of this chapter;
- (4) Performing work, whether for compensation or not, in a classification for which the licensee does not have a license;
- (5) If repeated inspections by the board reveal that the licensee is not securing satisfactory control of the pests or diseases which the licensee engages to control or eradicate;
- (6) Failure of licensee to register agents or solicitors, or failure to pay registration, inspection, or reporting fees due, or failure to make reports within the time specified;
- (7) Conviction in any court of a violation of this chapter or of the Federal Insecticide, Fungicide, and Rodenticide Act;
- (8) Intentional misrepresentation in any application for a license;
- (9) Failure to correct substandard work;
- (10) Making a pesticide recommendation or application which is inconsistent with any or all of the following:
 - (A) The labeling;
 - (B) Federal or state registration; or
 - (C) Federal or state restrictions on the use of that pesticide; and
- (11) Falsification of records or failure to maintain or make available the records required by this chapter.

17-37-218. Invalidation or nonrenewal proceedings.

- (a) Invalidation or nonrenewal proceedings may be initiated against a license holder in the same manner and for the same reasons as against a licensed operator or qualified operator.
- (b) The proceedings may be jointly and severally against any or all licensed operators or qualified operators employed by the license holder.

17-37-219. Automatic invalidity of license.

A license shall automatically become invalid should the licensed operator whose name appears on the license cease to personally supervise and be in direct charge of the pest control operation. The license shall remain invalid until some other person, having been examined in accordance with this chapter and the rules and regulations under this chapter, shall be certified as the licensed operator in his stead.

17-37-220. Hearing and appeal.

- (a) When any person is refused a license or his license is not renewed, or when the board contemplates invalidation of his license, he shall have the right of a hearing before the board, or an authorized committee of the board, by filing a written request for a hearing with the board by registered or certified mail.
- (b) Any person whose license is denied, refused, or invalidated by the board may appeal the decision to the Circuit Court of Pulaski County within twenty (20) days after official notification of the

decision.

17-37-221. Contracts, reports, and records.

- (a) All licensed operators shall enter into a written contract with the property owner when employed to control or eradicate termites or other structural pests, or in such other classifications as the board may specify in its rules and regulations made under authority of this chapter. The contract for termite and other structural pests shall guarantee the performance of the work for at least one (1) year and that the property meets the minimum standards established by the board in its rules and regulations for the work, unless these standards are waived or altered upon approval of the board.
- (b) A copy of the contract or "start-work agreement" and a complete outline of the work to be performed shall be given to the property owner before any work is started.
- (c)(1) By the fifteenth of each month, all licensed operators shall file a report with the board covering termite and other structural pest work performed the previous calendar month, along with a copy of each contract issued for the prevention, control, or eradication of termites and other structural pests and any other information deemed necessary by the board and stipulated in the rules and regulations made under authority of this chapter.

(2)(A) Reporting and payment of inspection fees may also be required for household pest and rodent control work or such other classifications as the board may specify if deemed necessary or if required by the Federal Insecticide, Fungicide, and Rodenticide Act.

(B)(i) All fees due the board shall be filed with the board by the fifteenth day of each month to cover work performed the previous calendar month.

(ii) If payment of fees due is delayed more than thirty (30) days, then the fees due shall be doubled.

(3) In addition, the reports shall include letters of clearance issued and service contracts issued even though no chemical treatments were carried out. The reports shall list the name and address of the owner, address of the property, length and nature of the guarantee, date the contract was issued, a plat or diagram showing the location of termite or other structural pest infestations, if present, location of damaged areas, and an outline of the work to be carried out.

(4) A report shall be filed each month even though no work is performed.

(d)(1) Each licensed operator, qualified operator, or license holder in any classification shall keep a complete record of all work performed, including copies of all contracts issued.

(2) The records shall be available for examination by the board or its representatives after reasonable notice and during normal business hours.

(3) The records shall be kept for at least two (2) years and shall contain information on kinds, amounts, uses, dates, and addresses of applications of restricted-use pesticides.

(e)(1) All licensed operators, qualified operators, or license holders shall stencil or paint on both sides of all motor equipment that requires a state vehicle license, the name of the operator or company, with letters at least two inches (2") high.

(2) Vehicles used only for sales or soliciting are excepted.

RULES AND REGULATIONS OF THE STATE PLANT BOARD

The following Rules and Regulations have been promulgated and adopted by the State Plant Board under authority of the Arkansas Pest Control Law, Act 488 of 1975 as amended Ar. Code Annotated, §17-37-101 et seq.

Classification:

The following classifications have been established for licensing and applicator certification purposes.

I. Commercial Applicator**A. Industrial, Institutional, Structural and Health Related Pest Control**

1. Termite and Other Structural Pest Control
2. Household Pest and Rodent Control
3. General Fumigation
- ~~4~~ 7. Food Manufacturing, Processing and Storage Pest Control
- ~~4~~ 8. Food Related Fumigation

B. Ornamental and Turf Pest Control

- ~~4. Tree Surgery~~ Ornamental Tree and Turf Pest Control
- ~~5. Ornamental, Tree and Turf Pest Control~~ Weed Control
- ~~7~~ 6. Golf Course Pest Control

~~C. Agricultural Pest Control (Plant)~~

- ~~8. Pecan Pest Control~~
- ~~9. Fruit Tree Pest Control~~
- ~~10. Vineyard Pest Control~~

II. A. Non-Commercial Applicator ~~(Certificate Only)~~ (see restrictions in Section VIII)

- ~~13~~ 9. A. Ornamental Tree & Turf Pest Control
- ~~13~~ 9. B. Ornamental Weed Control
- ~~14~~ 10. Golf Course Pest Control

SECTION I - REGULATIONS APPLYING TO ALL OPERATORS**1. Applying for ~~License~~ Examinations:**

All applicants must make written application to the Plant Board, on forms furnished by the Plant Board, at least 15 days prior to the examinations. Processing of each application must be completed before the written examinations are given. The applicant must submit a minimum of five character references from reputable businesses or banks with ~~his~~ their original application. ~~Adequate references must respond and be approved prior to issuing the license.~~

2. ~~Examinations~~ Examination Dates:

The written examinations in classifications 1,2,and 3 will be given the second Monday of January, March, May, July, September and November. Examinations in classifications 4, 5, 6, 7, 8, ~~9, 10, 11, 12, 13A, 13B, and 14~~ 9A, 9B and 10 will be given the second Monday of February, April, June, August, October and December at a time and place designated by the State Plant Board. In the event any of the designated dates occur on a day, when State offices are closed the, Director of the State Plant Board may designate

an alternate date for the examinations. The examinations will be graded by an examiner designated by the Plant Board.

3. Fees: 3. Applying for License:

After passing the examination, all applicants must make written license application to the Plant Board, on forms furnished by the Plant Board.

4. Fees:

The following fees have been established to carry out the provisions of ~~this Act~~, Ar. Pest Control Law

License:

<u>Operators First Classification</u>	\$100.00 <u>150.00</u>
<u>Each Additional Classification</u>	\$ 75.00 <u>100.00</u>
<u>Maximum per operator</u>	\$ 200.00 <u>300.00</u>

Registration:

<u>Agent</u>	\$20.00 <u>\$30.00</u>
<u>Solicitor</u>	\$20.00

Certificate:

<u>Non-Commercial Applicator</u>	\$ 35.00 <u>\$ 70.00</u>
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Examination:

<u>First examination (one classification)</u>	\$ 75.00
<u>Subsequent examinations and classification, each</u>	\$ 50.00
<u>Each classification</u>	\$ 100.00

Reporting:

<u>Each building on which a structural pest contract is issued</u>	\$3.00 <u>\$5.00</u>
<u>Late fee (30 or more days after due date)</u>	\$ 6.00 <u>\$10.00</u>
<u>First 5 buildings treated by new licensee:</u>	
<u>(Termite & other Structural Pest) each</u>	\$15.00 <u>\$ 20.00</u>

Reinspection-Inspection:

<u>First 5 buildings treated by new licensee:</u>	
<u>(Termite & other Structural Pest) each</u>	\$15.00
<u>(General Fumigation Inspection)</u>	\$10.00
<u>Each building treated for Structural Pest found not in compliance:</u>	
<u>First Notice</u>	\$ 25.00 <u>50.00</u>
<u>Second Notice</u>	\$ 50.00 <u>100.00</u>
<u>Third Notice</u>	\$ 100.00 <u>500.00</u>

4 5. Registration and Training:

License holders of classifications 1, 2, 3, 4, 5 or 6 shall register with the Plant Board all individuals (excluding clerical staff) employed by them to perform pest control services, including those employed for solicitation as their agent. Each solicitor or agent shall be registered only in the classification of pest control for which the license holder is licensed to perform. Employee's of a license holder applying pesticides must be or become a certified technician. The employee must be certified within 30 days from the date of their employment, until certified a employee may apply pesticides only in the presence of a licensed operator or certified technician. Certification is accomplished by completing 16 hours of classroom and 40 hours of on the job training. A qualified trainer shall be a licensed operator or certified technician with at least one year of experience in the pest control industry. Classroom and on the job training for technicians will be required of all pest control firms who hold a valid Arkansas pest control

~~license. Topics which must be covered during the training and suggested time frames on each are as follows. Agents must be registered and trained by the license holder within 30 days of their employment. Until registration and training requirements have been fulfilled the individual may apply pesticides only in the physical presence of a licensed operator or registered agent. Training requirements shall be 16 hours of classroom and 40 hours of on the job training. A qualified trainer shall be a licensed operator or agent with at least one year of experience in the pest control industry or other individual approved by the Plant Board. Topics which must be covered during the training and the suggested time frames on for each are as follows:~~

Classroom

- ~~1. Pesticide Labels, MSDS, State and federal Laws & label comprehension - 4 hours.~~
- ~~2. Pest identification, biology, control & damage- 2 3 hours.~~
- ~~3 Pesticide safety (Including personal protective equipment) handling, storage, disposal,, emergency procedures, & cleanup - 3 4 hours~~
- ~~4. Safe and proper use of equipment and treating techniques—7 Pesticide application techniques, & equipment maintenance - 3 hours~~
- ~~5. Pesticide laws and regulations- 2 hours~~

On the Job:

- ~~1. Pest Identification—2.5 hours~~
- ~~2. Labels and mixing of pesticides—5 hours~~
- ~~3. Personal protective equipment—2.5 hours~~
- ~~4. Job site preparation and pesticide application—30 hours.~~

Forty hours of verifiable job site work, performed under the direct supervision, direction and control of a qualified trainer. During the application of pesticides a licensed operator or registered agent must be physically present on the job site.

The Arkansas State Plant Board shall provide a form which the license holder shall complete and file with the Board as verification of the agents completed training. The information given on the form for classroom training-will shall include the dates and duration for each topic. On the job; number of job sites worked at, dates and total hours worked for that date of the training, topic duration, and name names of the trainers. Upon receipt of the completed ~~certification form, training record and application for agents registration~~, the State Plant Board will issue a certificate an agents registration card showing both the agent's and license holder's name names. To maintain ~~certification, technicians registration, agents must shall~~ be kept abreast of pest control technology and Receiving receive a minimum of 6 hours of continuing education each year shall be considered adequate to satisfy this requirement. This Continuing education may be achieved by completing a license holders in house training program or by attendance of approved seminars sponsored by the various associations, manufactures or suppliers affiliated with the pest control industry or the cooperative extension service training seminars.

An agent not employed by a license holder for 12 months will lose ~~certification—eligibility for registration-and~~ must complete the initial training requirements to be ~~recertified.reregistered~~. Records of training must be kept by the license holder for as long as the ~~employee agent~~ is employed. Such records shall be available for review by the State Plant Board during normal business hours. At any time, should the Board determine that training requirements have not been met, the license holder may be assessed a fine of up to \$1,000 per violation, as civil penalty procedure applies.

~~All technicians continuously employed by a license holder for a minimum of one year prior to December 31, 1995, will be considered sufficiently trained by the licensee to meet the requirements previously described. Certificate of certification will be issued provided the license holder submits a written request for such to the Board. The request must be made in writing and shall list the agents name, social security number and date of the technician's initial employment.~~

~~Technicians employed between January 1, 1996, and June 30, 1996, must complete 16 hours of classroom training to qualify for certification. Technicians employed from July 1, 1996, to December 31, 1996, must have completed or complete all of the training requirements to qualify~~

~~for certification. However, any technician employed by a license holder during 1996, which the licensee has documentation sufficient to verify, to the Board's satisfaction, that the technician has fulfilled the training requirements, will be qualified for certification.~~

5-6. Hearings, Invalidation of Licenses:

Any person who is refused a license, or whose license is being considered for invalidation, may secure a hearing before the Pest Control Committee before the final Board action is taken. This Committee shall consist of the Board member who represents the Head of the Department of Entomology, University of Arkansas, who shall act as the Chairman, and the Board member who represents the Arkansas Pest Control Management Association. ~~The~~ Remaining committee members shall be appointed by the Chairman of the Plant Board. This Committee may hold hearings regarding licenses, ~~as indicated above~~, to take testimony and gather evidence regarding same. Such testimony, ~~and~~ evidence and the committee's recommendation shall be made available to the Board for consideration and final action.

6-7. Keeping Abreast of Technology:

Each licensed operator, qualified operator and non-commercial applicator shall keep himself / herself abreast of changing pest control technology to assure a continuing level of competence and ability to use pesticides safely and properly. The completion of a Cooperative Extension Service Pest Control School every third year shall be considered adequate to satisfy this requirement. An appropriate form, signed by the Director of the school, shall be filed with the Plant Board as proof of attendance. Any licensee failing to meet this provision shall be reexamined or lose ~~his~~ their license and certification.

7-8. Standards for Licensing Pesticide Applicators:

Plant Board standards for the licensing and certification of licensed operators, qualified operators and non-commercial applicators shall be the same as the standards set forth in Section 171.4 thru 171.6 of the Code of Federal Regulations 40 CFR part 171 written pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. Said sections are as follows: Section 171.4, Standards for Certification of Commercial Applicators; Section 171.5 Standards for Certification of Private Applicators, and Section 171.6 Standards for Supervision of Non-Certified Applicators by Certified Private and Commercial Applicators.

9.Branch Office Operations

On forms provided by the Plant Board, license holders in classifications 1, 2, 3, 4, 5 or 6 shall register the physical address of each branch office from which they will engage in the practice of pest control service.

Any license holder that operates more than one office, under the same name or as a subsidiary with a different name, as long as the final financial, legal and other administrative functions, rest with the parent organization, shall be required to have located at the branch location a licensed operator or qualified operator duly registered and approved by the State Plant Board. This regulation shall be placed in full effect and force on July 1, 2005. For the purpose of this regulation, a Branch Office is considered to be any location where normal business activity might occur. This location could be expected to exhibit but is not limited to such activities as: 1) having personnel maintaining a typical office environment with any commercial utility service, 2.) Maintaining files at the location, including copies of files when the original copies have been forwarded to the 'home office', 3.) Having company owned vehicles and equipment routinely located at the site, 4) being a location where employee(s) routinely report for work and who are capable of providing information relative to pest control services, scheduling or supervising working crews. A Branch Office would also include any location where business is conducted from a portion of a private residence or other establishment.

910. Clarification:

The following regulations are promulgated to clarify the Board's intent relative to certain sections of ~~Act 488 of 1975~~ the Pest Control law.

Ar. Code Annotated, § 17-37-102. Definitions:

(1) Agent - An agent is an individual employed by a license holder. ~~An~~ Agent's registration will be issued upon the written request ~~of~~ by a license holder on forms prescribed by the Plant Board ~~and~~ only in the name of the person who is an employee of the license holder making the application. Individuals for whom an agent's registration is requested shall not be an employee, ~~employees~~, ~~owner-operators~~, ~~operator~~, franchise ~~holders~~ holder or independent ~~contractors~~ contractor of any pest control service other than that of the license holder. An agent ~~can~~ may be terminated by the license holder at any time. All contractual agreements for pest control services executed between agents and customers are the property of the license holder.

(9) License Holder - Certification shall not be required of License Holders who employ Licensed Operators or Qualified Operators and who do not themselves use or supervise the use of restricted use pesticides.

AR. Code Annotated § 17-37-206 License Application:

(f) Persons holding valid licenses issued under the authority of ~~Act 488 of 1975~~ the Pest Control Law whose licenses become subject to renewal, shall be examined and found to meet the Standards for Licensing and Certification of Pesticide Applicators set forth in Sections 171.4 thru 171.6 of the Code of Federal Regulations 40 CFR Part 171 pursuant to FIFRA, as amended.

Ar. Codes Annotated § 17-37-216 & 17-37-217:

Refusal to issue. Grounds for license invalidation or non-renewal of License.

In addition to invalidation and denial, this section shall also be considered as providing for the suspension of a license. Items (1) thru (11) shall be considered as grounds for suspension as well as denial or invalidation of a license. In addition, the use of a pesticide inconsistent with its labeling shall also be considered grounds for denial, suspension or invalidation of a license.

Ar. Code Annotated § 17-37-202 (b) Exemption :

Shall provide for the use of general use pesticides only, during the period of time a pest control company may operate without a licensed operator.

Ar. Code Annotated § 17-37-203 Exemptions:

The exemptions stated in 17-37-203 shall apply only to persons who use general use pesticides.

Ar. Code Annotated § 17-37-103 Penalties:

Items (1) thru (11) of Ar. Code Annotated § 17-37-217 shall be considered violations of ~~Act 488 of 1975~~ the Pest Control Law and its regulations and shall be subject to the penalties stated in Ar. Code Annotated § 17-37-103 and the Pest Control enforcement response regulations as stated in Section IX.

Ar. Code Annotated § 17-37-106 Prior Rules and Regulations:

This section does not repeal Act 389 of 1975 Ar Code Annotated § 20-20-202 or act 410 of 1975 Ar. Code Annotated § 2-16-402 or any part of either act.

SECTION II - RULES AND REGULATIONS FOR OPERATORS HOLDING A LICENSE FOR TERMITE AND OTHER STRUCTURAL PESTS (CLASSIFICATION ONE)

1. Contracts.

All ~~licensed operators~~ license holders in Classification One shall issue a signed contract, along with a complete plot or diagram showing the location of visible damage, active or previous infestation and an outline of the work to be carried out on each job performed for the prevention, control or eradication of termites and other structural pests, including soil pre-treatments and letters of clearance. ~~which guarantees the performance of work for a period of not less than one year.~~ Said Contracts must guarantee the performance of work for a period of not less than one year and clearly state, on the face of the contract, the name of chemical used ,if repairs of damage are included or if the license holder's liability is limited to re-treatment only for the control of termites under the guarantee. License holders must submit a legible copy of all contracts to the Plant Board for review prior to their issuance. Except in cases when the operator uses baits as the primary pesticide for control of termites, the contract must provide an initial guarantee of not less than 2 years and a provision for renewal annually at the consumers option for an additional 3 years. When ~~In cases where an operator is issuing a letter of clearance on a building that is already under a current contract by the licensed operator license holder writing the letter of clearance, for a real estate transaction, a new contract, including diagram, shall be issued in the name of the new buyer, guaranteeing the performance of work for one year from the date the letter of clearance is issued. The new contract requirement shall not apply in cases where the letter of clearance is issued on buildings already under contract, that are being refinanced, provided the operator license holder holding the contract issues the letter of clearance.~~

Letters of clearance, written on buildings under contract by the operator, must show the original date of treatment.

~~Contracts which provide a guarantee to apply or reapply pesticides only for the control of termites (no replacement of damage) can be issued on 3% of the number of buildings reported by the operator July 1 to June 30 the previous year. Additional contracts (no replacement of damage) may be issued not to exceed 2% of previous year reported jobs. The operator must apply for a waiver of the requirements for structural pest work listing replacements as the exception on the request. These contracts must be reviewed by the Plant Board prior to issuance. The number of contracts providing a re-treatment only guarantee for the control of termites that a license holder may issue per fiscal year (July 1 to June 30) shall not exceed 20% of the number of buildings for which the license holder reported and paid reporting fees during the previous fiscal year (July 1to June 30).~~

Renewals.

Each time a contract is renewed the operator shall assume responsibility for bringing substandard conditions in the building under contract up to standards, except on prior approved substandard buildings. This shall also apply to all new additions to the building unless the ~~operator~~ license holder shows in **bold** print, on ~~his~~ the renewal notice, that the renewal does not cover new additions to the building. When ~~an operator~~ a license holder elects not to renew a viable contract, the owner must be notified ~~either in person or by attempted return receipt requested~~ certified mail, at least 30 days prior to the contract expiration date, of the intent not to renew the contract. Notification by the operator of non-renewal does not apply when the contract is terminated for non-payment of the renewal fee, or canceled by the consumer, provided the consumer was notified a renewal fee was due.

2. Reporting - Responsibility.

Licensed operators shall give complete information required by Code 17-37-221 of the Pest Control Law by filing monthly reports. This information shall be filed with the Board even though it is understood that payment for the service will be made at a later date. In all cases where there is a question as to whether a job is completed, the criterion for a completed job shall be payment in part or in full. Each licensed operator shall be responsible for, or shall guarantee for at least one year, all representations, provisions, declarations, work or services called for by the contract, form 905 and the diagram of the property or by Letters of Clearance.

3. Meeting Minimum Standards.

Each ~~property building~~ on which a contract is issued ~~in classification one~~ for the prevention, control or eradication of termites shall meet the Minimum Standards outlined in Section III A, III B, III C D or III E of these regulations unless unusual structural or physical conditions render the correction of certain conditions to portions of the building ~~it impractical to meet certain of the Standards~~. In such cases, ~~prior approval to treat the impractical portion of a structure substandard~~ an agreement for responsibility of performance or waiver of meeting certain requirements for Structural Pest Work may be requested, provided the ~~rest~~ remainder of the structure is treated to meet all remaining Minimum Standards requirements. ~~Request Agreements for prior approval of substandard~~ waiving minimum requirements for structural pest work shall be made on forms supplied by the Plant Board. ~~An inspection of the property will be made within 15 days of receipt of the request and no work shall be done unless and until approval is given. Each request for prior approval waiver agreement shall be accompanied by an inspection fee of \$30.00 signed and dated by the property owner, or prospective buyer and the licensed operator. If the inspector, in his judgment, finds that an impractical situation exists, the fee will be refunded and the property owner or prospective buyer shall be fully informed as to the type and quality of work to be performed under the substandard agreement. If the inspector determines that a situation is not impractical, the \$30.00 fee will be retained to help defray the expense incurred in making the inspection and approval will not be given to treat the property substandard. The contract issued on the building for which a waiver of the minimum requirements is requested shall clearly state that minimum requirements for Structural Pest Work have not been fulfilled and reference the waiver as being a part of the contract.~~

4. Letters of Clearance / Wood Destroying Insect and Organisms Report

Any statements as to the condition of a building pertaining to termites, ~~powder post beetles~~ other wood destroying insects or decay fungi (Rot), other than a bid or proposal for treatment shall be considered a Letter of Clearance. Letters of Clearance- issued in connection with a real estate transaction shall be made on a form officially adopted by the State Plant Board. This form shall be the current Wood Destroying Insect Infestation Inspection Report form prescribed by HUD. Letters of clearance must be accompanied by a signed contract ~~including providing~~ a guarantee of at least one year and a graph or diagram showing, if present, the location of active or inactive wood destroying insect infestations and visible damage. If present, conditions existing to the substructure favorable to decay fungi and possible damage due to rot must be disclosed in the additional comments section on the form. Structures upon which ~~they~~ letters of clearance are written must meet all conditions stated in the letter as well as all the minimum requirements for structural pest work in Sections IIIA, IIIB, and IIID or III E. For additional responsibility on Letters of Clearance see Section II, Item I, Contracts.

~~A Letter of Clearance will not be approved unless all parts of the building are accessible for inspection or have been treated as specified in Section III A, III B or III E. This shall apply to dirt fills, wood embedded in concrete, timbers between stucco or non wood walls, or any other condition which may render it reasonably possible for unseen infestations or damage to exist. When such conditions are encountered they must be clearly described in the Letter of Clearance and Prior Approval must be obtained as outlined in item 3 preceding.~~
Areas which are inaccessible for inspection must be clearly described in the letter.

When a Letter of clearance is issued on a ~~buildings in~~ buildings for which previous substandard prior approval or waiver of the minimum treating requirements has been given, the operator shall notify the new owner in writing (on the Clearance Letter if possible) that specified prior approved substandard conditions ~~do~~ exist in the structure. When this is done the operator shall not ~~subsequently~~ be issued a Report of Substandard Termite Treatment on the specified substandard conditions.

5. Reporting and Reinspection Fees - Correcting Substandard Work.

Each ~~licensed operator~~ license holder shall remit to the Plant Board, by the 15th day of each month, an

inspection fee of ~~\$3.00~~ 5.00 for each building on which a contract has been issued during the previous calendar month excluding new contracts issued with letters of clearance on buildings under current contracts. The ~~\$3.00~~ 5.00 reporting fee shall be paid on each building treated regardless of how many buildings are covered by a single contract. If for any reason the payment of this fee is delayed more than 30 days ~~then~~ the fee shall be doubled. The Plant Board, through its authorized representatives, reserves the right to inspect any or all buildings on which a contract has been issued, ~~by each licensed operator~~, to determine ~~whether~~ compliance with the Pest Control Law and the Rules and Regulations made thereunder ~~are being complied with~~. Should inspections by the Plant Board's representatives ~~on~~ of buildings covered by a contract, including a renewal of a contract and/or Letter of Clearance, be found infested with termites or other structural pests for which prevention, control or eradication has been contracted, or if the Plant Board's minimum standards (Sections IIIA, ~~and~~ IIIB, IIID and IIIE), other than those excepted in the contract and given prior approval or a waiver by the Plant Board, have not been met or fulfilled, or misrepresentations have been made to the owner, ~~then~~ the Plant Board will send the ~~licensed operator~~ license holder a notice to that effect. The ~~licensed operator~~ license holder shall, within 15 days, retreat the building when necessary and otherwise bring the building into compliance with the law and these regulations and shall submit to the Plant Board along with the report of correction an appropriate reinspection fee. If the necessary corrections cannot be made in 15 days due to circumstances beyond the ~~operator's~~ license holder's control, ~~he may request~~ additional time may be requested from the Plant Board office. When a notice has not been returned by the due date ~~it is due~~ and the ~~operator~~ license holder has not contacted the Plant Board office concerning the notice, a reinspection of the building will be made and another notice will be issued, if the building has not been brought up to standard at the time of the reinspection. Should subsequent reinspections reveal the building still not in compliance, the same procedure outlined above will be followed. These fees are to pay for the cost of inspections and payment does not preclude invalidation of a license by the Plant Board should this be warranted

6. Inspection of First Five Properties Treated.

Within 90 days of issuance of a ~~after the~~ first termite and other structural pest license ~~is issued~~ to a person, the new licensee shall submit a report on ~~his~~ their first five termite jobs including all required forms and information. The report shall be accompanied by an inspection fee of ~~\$15.00~~ 20.00 for each job and the regular ~~\$3.00~~ 5.00 inspection reporting fee will be waived on these first five jobs. Plant Board representatives will inspect the jobs to determine assess the operator's ~~ability to perform this work in~~ performance and compliance with the law and regulations. If a licensee does not complete and report ~~his~~ their first five jobs in 90 days, or if inspection shows that the operator is apparently not qualified, ~~he shall be notified~~ a notification that no more work is to be contracted will be issued and the Plant Board will consider revoking the license. A hearing before the Board's Pest Control Committee may be requested by filing a certified letter with the Board within 20 days of receipt of the notice.

7. Supervision.

A licensed operator shall personally supervise or inspect all work and/or services performed. A verification of this shall be made on the monthly report of work performed, ~~on Plant Board's Form 905,~~ signed by the licensed operator. If the licensed operator fails to comply with this provision, he shall be considered as if no longer in charge of the license-holder's pest control operation, and the license shall be deemed invalid in accordance with the provisions of the Pest Control Law.

8. Notice that all Jobs are to be Inspected.

Any time that an unreasonably high (15% or more) number of jobs of a licensed operator / holder upon inspection are found not in compliance with the law and these regulations, the Pest Control Committee, after reviewing the record of the licensee in question, may instruct Plant Board inspectors to inspect all jobs reported during the previous year. In such a case the license holder / operator will be notified by registered or certified letter (return receipt requested) that ~~his~~ their work has not been satisfactory. The

Plant Board will withhold any further inspections for 60 days following the receipt of this notice. After the 60-day delay, all jobs reported the previous year, not including those previously checked and in compliance, will be inspected. The time period covered will be the year previous to the date that the above notice is received by the licensed operator.

SECTION III A - MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON EXISTING STRUCTURES.

1. Access opening.

An opening, at least 14 inches high and 16 inches wide, shall be provided to permit inspection under all parts of the building.

2. Chemicals.

The term chemical, when used hereafter, shall apply to pesticides used for the control or prevention of termites, powder-post beetles, wood destroying fungi and other wood destroying organisms. The pesticides are described in Section III C-materials.

3. Debris and Form Boards.

~~(a) Remove all wood (including stumps and dead roots) and other debris from under the building~~
Large stumps, if their removal is impractical, may be trenched and treated with chemical, provided they are not in contact with or within 5 inches of foundation timbers. All wood including stumps, roots and other cellulose debris which can be caught by a rake, on the surface of the ground, must be removed from underneath the building. Large stumps, that are impractical to remove, may be trenched, drilled or rodded and treated provided they are not in contact with or within 5 inches of the buildings substructure timbers.

~~(b) Remove~~ All unnecessary form boards and grade stakes, must be removed from underneath and around the outside of the building. Grade stakes embedded in the foundation footing which are impractical to remove should be cut off flush with the concrete and treated as per label directions with chemical.

~~Comment: Remove all pieces of wood which can be caught by a rake, both on and near surface of ground.~~

4. Clearance Under Buildings.

~~Remove~~ All soil which is within 12 inches of bottom edge of floor joists or within 5 inches of subsills must be removed.

Note: Adequate clearance scuttle holes 14 inches high and 16 inches wide must be provided under drop sills, plumbing and air ducts for passage of a large man to make complete inspection under all parts of the building.

5. Shelter Tubes.

Brush all termite shelter tubes from piers, walls, sills, joists, sub-floors, pipes, and other parts of The understructure.

6. Piers and Stiff-legs.

(a) Stiff-legs or other wood supports must have concrete or metal-capped bases extending at least 4 inches above the ground.

(b) Piers under sills or subsills, if less than 8 inches high, must be concrete or metal-capped.

7. Wood on Concrete Floors.

Where wood parts such as posts, door frames, partitions, or stair-carriages:

- (a) have been attacked by termites working up thru concrete, or
- (b) are set down into concrete, said wood parts must be cut off and set on metal or concrete bases raised at least 1 inch above the floor level.

Exception: Stiff-legs, posts, or other wood supports supporting a raised sundeck, patio, wood porch, carport roof or similar attached appurtenance, located outside the exterior perimeter of a buildings foundation, need not be cut off and placed on concrete or metal bases as required in Sections 6(a) and/or 7, ~~Adequate~~ however chemical treatment must be applied as per label directions around such supports ~~however~~.

8. Wood Steps.

~~Adequate~~ Chemical treatment as per label directions ~~to control termites~~ around all wood steps shall be made.

9. Pipes

Pipes should be trenched and treated with approved chemicals according to label directions.

10. Dampness.

Dampness favors the development of termites and wood rots. If water can run under the building through access opening, ventilators, or other openings in or under side walls or skirting, this condition must be remedied. Seepage through or under walls should be prevented. If it is impracticable to prevent seepage, owner must be notified in the contract.

If condensation of soil moisture upon wood of the substructure is a problem it can be prevented by constructing a vapor barrier. An adequate barrier can be made by covering the soil under the building with roofing paper or polyethylene sheet.

~~WARNING: Subfloors and hardwood floors swelled by excessive moisture may crack or be damaged if the moisture is dried out too rapidly. To prevent this, strips should be left uncovered between sheets of the ground cover or along the foundation walls.~~

11. Ventilation.

Inadequate ventilation also favors the development of termites and wood rots. Provide ventilation at the rate of at least one 8 x 16 inch opening (or equivalent) for each 25 linear feet of foundation wall. Provide ventilation for all dead air pockets.

12. Replacements / Exclusion of Existing Damage

A. Wood ~~which has been~~ substantially weakened by termites, powder-post beetles or decay fungi (rot) should be replaced. Replacements may be made by the operator or the property owner, or both. Replacements of damage caused by termites or powder-post beetles for which the operator is not ~~to be~~ responsible must be specifically excluded in writing by:

- (1) Describing the excluded replacements in the contract and stating therein that they are not to be made by the operator;
- (2) Showing their location on the diagram of the structure and;
- (3) ~~Noting these replacements as an exception to item 12 on Form 905; and~~
- (4) Noting that the replacement of uninfested hidden damage (that which cannot be seen by thorough visible inspection without defacing the property) at or above the subfloor, which is not

covered by (1) and (2) ~~and (3)~~ and which was caused by an infestation occurring prior to the operator's first treatment of the property or the issuance of a letter of clearance, shall not be the responsibility of the operator.

B. The ~~operator~~ license holder shall be ~~requested~~ required to replace substantially weakened wood which has been damaged by termites, on buildings covered by a contract providing a guarantee for retreatment and replacement of termite damage, when inspectors find active termites associated with the damaged wood and / or visible damage not excluded as required in paragraph A. ~~This is true regardless of the type of contract issued on the property.~~ C. Replacement of wood weakened by decay fungi (rot) shall not be the ~~operators~~ license holders responsibility, unless they have entered into an agreement to control this pest provided ~~they have stated that the owner is provided written notification~~ in **bold** print that a condition exists to the substructure which is favorable to decay fungi and possible damage due to rot, on the termite or powder-post beetle control contract, graph, and letter of clearance, if issued.

~~Exception: Item 12 does not apply when the contract issued gives a guarantee of application of a termiticide for the control of termites only.~~

13. Outside Grade. See Figure 1.

A. Wood Construction.

Top of foundation wall and all exterior wood, such as siding and framing, must be at least 3 inches above outside grade. To lower grade, soil next to wall should be removed to necessary depth and a retaining wall built or a concrete gutter installed, after ~~heavy application of chemical is made~~ applied in accordance with label directions.

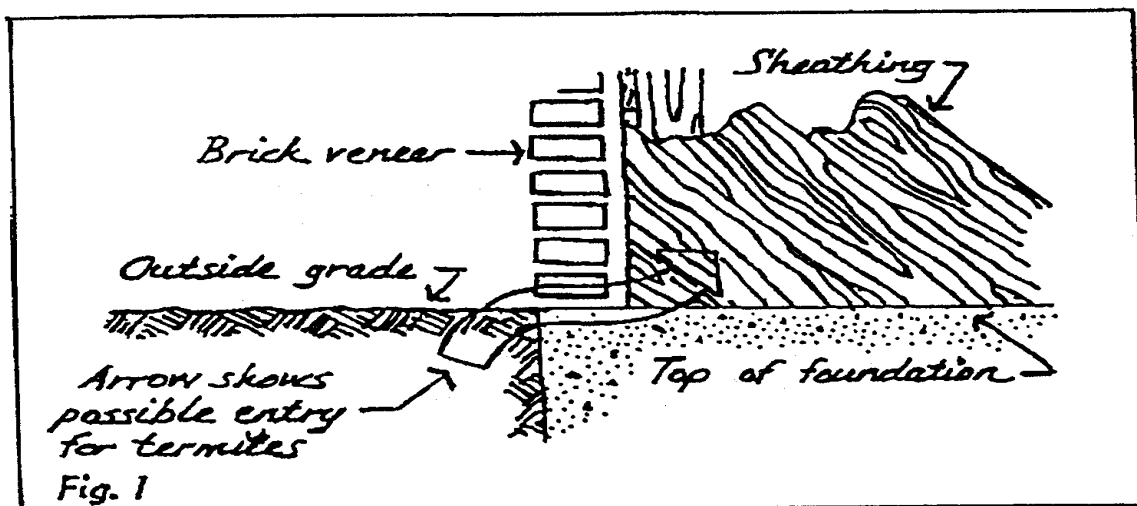
B. Masonry Veneer Construction.

In lieu of a retaining wall or concrete gutter as specified in (A) above, soil against masonry veneer walls may be treated according to label directions with a ~~heavy~~ application of chemical.

FIGURE 1 EXPLAINS 13.

In this drawing, the top of the foundation is level with the outside grade. This is a hazardous condition for two reasons:

- (1) Wood at or near ground level is often damp, a condition favorable to termites;
- (2) Termites can easily enter from the outside, unseen, by going thru cracks in the first mortar joint and then into the sheathing. Unless the outside grade is at least 3 inches below the wood parts of the house (including the siding on a frame house), it must be treated as described in Section 13.



14. Skirting and Lattice Work.

~~These~~ Skirting and Lattice Work should rest on solid concrete or cemented brick extending at least 3 inches above the outside grade, unless suspended, in which case there should be at least 3 inches clearance above grade. ~~Or,~~ Contact must be broken between the building and any lattice which may rest on or in the soil.

Exception: Skirting and lattice work outside the perimeter of a buildings foundation, attached to a wood porch or deck, need not be serviced to provide 3 inches of clearance above the outside grade.

~~Adequate~~ Chemical treatment as per label directions to control termites must be made around these items however.

15. Steps, Porches, Ground Slabs* and Similar Structures.

A. Structures which are even with or above the sill line must be either:

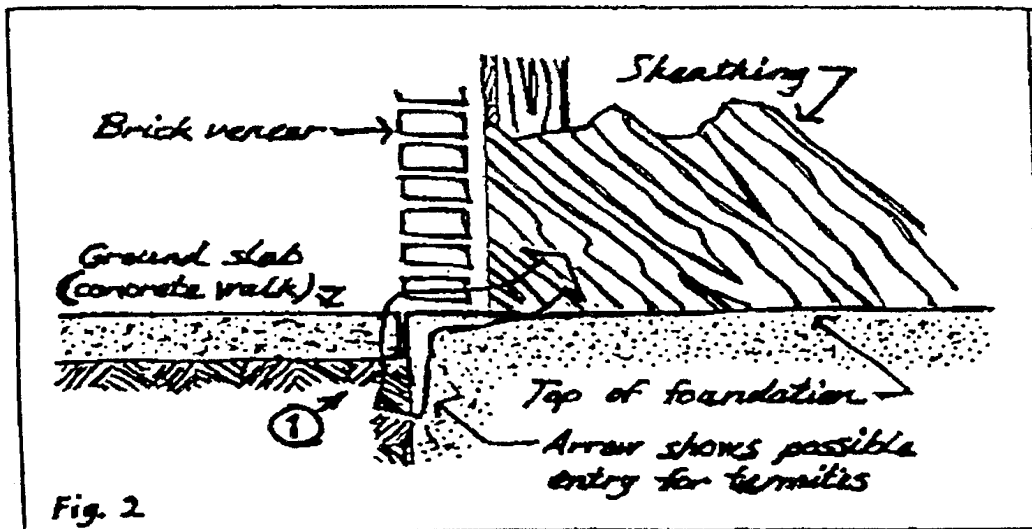
1. Drilled ~~on not more than 24 inch centers,~~ at intervals specified by label directions, or rodded, and the soil thoroughly flooded with Chemical at the juncture of the structure and foundation or wall. If the structure is long-rodded, the route must be shown on the diagram of the building; or
2. Tunneled and treated, the tunnel must extend the length of the fill and be at least 12 inches deep (or down to grade) and 12 inches wide. Dirt of the tunnel ~~should~~ must be saturated with chemical at all points of contact with wall and slab. Supports for the slab should be erected in the tunnel if needed. ~~The tunnel must be well ventilated, preferably at the ends.~~

B. Structures below the sill line:

1. For veneer construction, ~~nothing must be done~~ treatments are not required unless (3) applies. an infestation is associated with the structure, In such case the structure must be drilled or tunneled as in (A) above.
2. For frame construction, in which the structure is within 3 inches of the wood it must be drilled or tunneled as in (A) above. If the structure is more than 3 inches below the wood ~~nothing must be done~~ no treatment is required unless (3) applies an infestation is associated with the structure. In such case it must be drilled or tunneled as in (A) above.
3. ~~If an infestation is associated with the structure it must be drilled or tunneled as in (A) above.~~

FIGURE 2 EXPLAINS SECTION 15 A & B (IN PART).

When the top of the concrete walk (ground slab) is level with top of the foundation wall, termites may come up unseen thru the joint between foundation and slab, thru cracks in the first mortar joint, and into the sheathing. To correct this condition, a tunnel may be made at (A) and chemical applied, or the slab may be drilled as specified by label directions ~~on not more than 24 inch centers~~ at (A) and the soil ~~flooded~~ treated with chemical.



NOTE 1: Tunneling is preferred over drilling and treating in moist situations where wood is in contact with the soil.

NOTE 2: Solid (not dirt filled) porches and steps may be drilled on 9 inch centers and treated or they may be made accessible for thorough inspection by opening the foundation sufficient for visual examination across the back of the structure. When possible, removal of the sill or plate to expose the back of the structure is suggested.

NOTE 3: If siding or other exterior wood touches the top of a dirt filled or ground slab structure. Slab structure must be drilled and treated, or tunneled, or the situation remedied by cutting strip from the bottom of the siding to create a space where termites must expose themselves getting to wood.

* "Ground Slab" refers to such structures as concrete or masonry walks, gutters, patios, etc., laid directly upon the ground rather than upon a dirt fill.

Tunneling and Treating Notes. (See Figures 2 and 4-3)

NOTE 1. The size of the tunnel under ground slabs is not specified.

NOTE 2. When the sill or other wood extends below the bottom of the concrete slab, the tunnel must be more than 12 inches deep next to the foundation wall, in order to provide at least 12 inches of clearance from the bottom of the wood to the bottom of the tunnel.

NOTE 3. When the bottom of the tunnel is above ground level under the structure, the trench for applying the chemical in the tunnel should, be dug down to the level of the trench on the opposite side of the wall, unless the wall is of solid, un-cracked, concrete. If this is impracticable, the wall should be drilled and injected at the level of the bottom of the tunnel, rather than at the ground level.

NOTE 4. If it appears that a fireplace hearth would fall in if tunneled, the chimney base may be drilled and treated as stated in Paragraph 19,

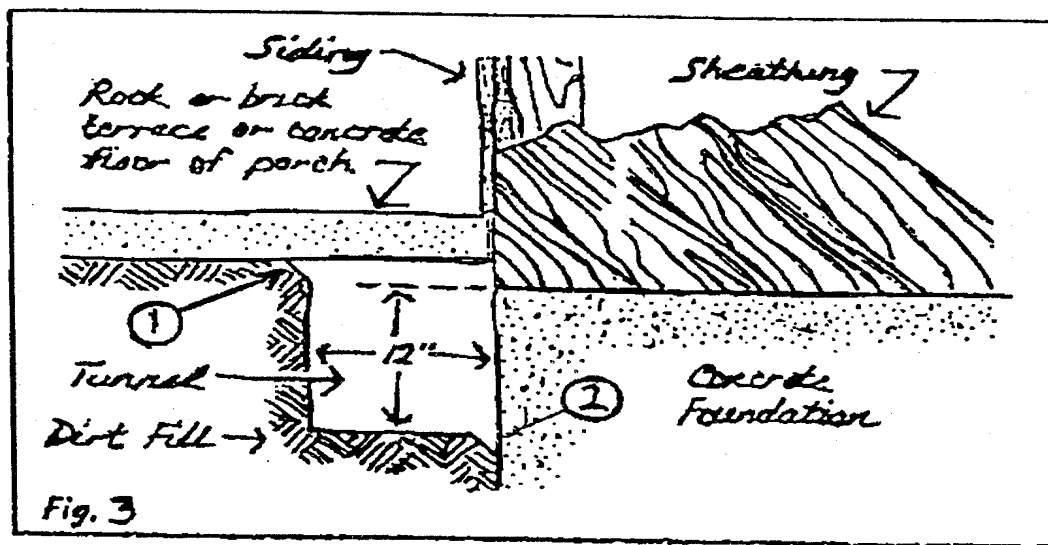


FIGURE 3 EXPLAINS 15 (IN PART).

When tunneling a dirt filled porch (or other dirt-filled structure), the bottom of the tunnel must be at least 12 inches below the sill or other wood parts of the building. Apply chemical at ® and ©.

16. Stucco.

- (a) Wood supports for stucco must be at least 6 inches above outside ground level, or 4 inches above level of ground under an adjacent slab.
- (b) Where stucco extends to or below grade, chemical should be applied heavily as per label directions in trenches dug below and under the edge of the stucco, so as to assure saturation of ground beneath. This is in addition to ground treatment under building (see 17).
- (c) Where ground slabs prevent the trenching required under (b), the ground may be saturated treated by flooding injecting chemical into through the void between stucco and inner walls.

17. Ground Treatment Under the Building.

Chemical ~~shall~~ must be applied ~~in narrow trenches 3 to 6 inches deep (but not lower than top of footing), dug in contact with and around foundation walls, pipes, chimneys and piers.~~ Apply chemical according to label direction entirely around inside of foundation wall, and around all pipes, chimneys, and piers.

18. Ground Treatment Outside Buildings.

For infested buildings, apply chemical according to label directions entirely around outside of foundation wall, ~~in trenches dug to the same depth as the inside trench where possible (Figure 4)~~ Such Treatment on uninfested buildings shall be at the operator's license holders option.

Example. If the outer ground level is 12 inches above the inner ground level, the outside trench should be 12 inches deep. The dirt used to refill the trench should be saturated with chemical. To prevent termites from entering from the outside through the mortar joints. The only remaining way by which termites could come up the wall would be by coming from below through the footing. Drilling and injection of the first mortar joint above the trench as required by 19 (B) should be done to prevent this.

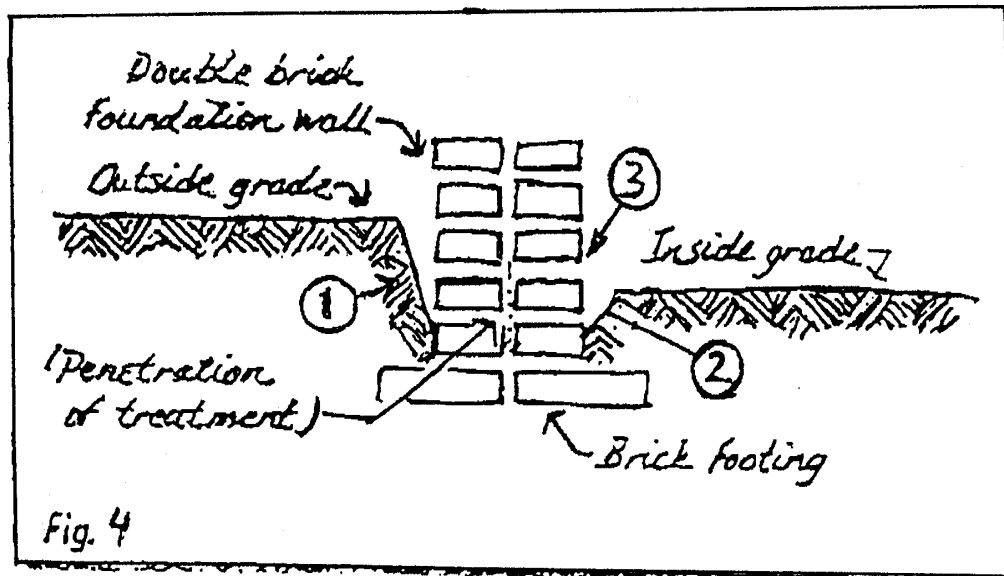


FIGURE 4 EXPLAINS SECTIONS 18 AND 19(b) IN PART

Outside and inside trenches ① and ③ should be dug to the same level. When applying chemical around foundation walls. The first horizontal mortar joint above the trench at ① should be drilled and treated at 9-inch intervals. The full width of the brick, should be drilled to assure that chemical will reach and penetrate down into the vertical mortar joint, as shown.

19. Chemical Treatment of Masonry.

Chemicals ~~should~~ shall be applied in accordance with label directions as follows to foundation walls, piers, and chimneys.

(a) ~~Flood~~ To all cracks in concrete.

(b) Drill mortar joints on 9-inch centers and ~~flood~~ inject all cracks and voids, in the horizontal layer of masonry (stone, brick, concrete blocks, tiles) which is adjacent to the treated ground at the bottom of the trench (Figure 4).

(c) ~~Flood~~ Inject voids between walls, as in brick veneer and stucco construction.

(d) ~~Flood~~ Treat between the top of masonry and the sills or other timbers resting thereon. When ~~the foregoing appears~~ this is insufficient, the top of the wall or piers should be capped with concrete or metal.

NOTE 1: When the foundation wall is of hollow masonry blocks, and ~~these~~ the blocks are not capped with metal or solid concrete, ~~drilling~~ each void should be ~~done drilled~~ at each void, and ~~heavy application~~ injected with chemical as per label directions ~~of chemical applied~~. This should be done even though there is no visible sign of infestation.

NOTE 2: When footing is of solid concrete, with no cracks, and trenches on both sides of wall extend down to it, drilling and injection of mortar joints in wall is ordinarily not necessary.

NOTE 3: Items 17, 18, and 19 do not permit spot treatment of dwellings. The ~~operator~~ License holder is held responsible for the entire structure on one and two-family dwelling units. Commercial, industrial and institutional buildings may, however, be spot treated at the ~~operator's~~ license holder's option. The ~~operator's~~ license holders responsibility in such cases shall be limited to retreatment and repair of the area spot treated, provided the area is shown on the graph, ~~and~~ described in the contract

and understood by the property owner before ~~he signs~~ the contract is signed.

20. Powder-Post Beetles.

If powder-post beetles are present in the understructure and are not to be treated, the owner must be so informed in writing before the contract is signed. Treatment, if made, should be applied to all wood showing signs of infestation. This can be done by spraying, brushing, or mopping heavily as per label directions onto wood surfaces any pesticide approved for use in powder-post beetle control as described in Section IIIC-Materials. Two or more applications must usually be made at intervals to achieve control.

Special formulations are required for treating flooring or furniture to avoid damage to the finish.

21. Slab Construction.

~~This type of Slab construction shall meet all of the foregoing minimum requirements except, as outlined in paragraphs 1, 3(a), 4, 9, 10, 11 and 17. Treatments are should be made when swarms occur or damage is found, or as a preventive measure. Treatment under the slab is accomplished by drilling holes in the slab or foundation through which sufficient chemical can be applied in accordance with label directions pumped with a power sprayer to thoroughly flood establish a barrier in the soil.. Long-rod drilling can sometimes be accomplished without drilling.~~

~~When the grade permits and drilling is necessary, Holes should be drilled through the outside foundation at the horizontal level of the bottom edge of the slab. This will avoid damage to floor coverings which may occur if drilling is done inside. When the slab is at or very near grade level, the only route beneath it in many cases is by drilling through from inside. This is also true when treating junctures of the slab and foundation. Care must be exercised to avoid damage to utility pipes, wiring or heating systems embedded in the concrete. Building plans should be consulted before drilling, if available.~~

~~Brick and stone veneer on slab construction is treated by drilling through the veneer and flooding injecting the void between the veneer and the slab with chemical. Brick and stone veneer shall be drilled at intervals as specified by label directions. every third brick. Stone veneer shall be drilled no farther apart than 36 inches.~~

NOTE: On structures which are part slab and part crawl space, appropriate minimum requirements shall be met on each part.

22. Foam Treatment for Concrete Slab and Masonry Veneer.

~~Treatment is accomplished by drilling no farther apart than on 6 foot centers. Foam applications shall be of sufficient duration to apply termiticide dosage equivalent, as required by label, to liquid treatment. The volume of foam applied shall be the amount required to equal the rate and volume specified by the label directions when the chemical is applied as a liquid.~~

23. Foam Treatment for Crawl Space.

~~Treatment is accomplished by applying the required dosage of termiticide chemical in a 3-inch trench along foundation walls, piers, pipes, etc. The rate of termiticide application shall be equivalent, as required by label, to liquid treatment. The volume of foam applied shall be the amount required to equal the rate and volume specified by the label directions, when the chemical is applied as a liquid.~~

NOTE: ~~Specify on~~ All contracts and graphs must specify when foam treatment is used.

SECTION IIIB - MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON NEW CONSTRUCTION (PRE-TREAT).

~~Conventional Construction (Crawl Space).~~

Pretreat: New structures buildings which are treated for termite control the control of termites before, during and/or at the conclusion of construction. must meet all of the minimum requirements given for existing structures in Section IIIA, except 11, 13B and 15 through 22. Treatments should be made as directed in the "Chemical Treatment" sections below.

Item 11 Exception:

When proper ventilation as described in Section IIIA minimum treatment standards does not — not exist, the pest control operator shall notify, in writing, on the contract, within 12 months — of ownership, that proper ventilation was not provided at time of construction.

Slab Construction

Pre-treated slab structures shall meet all of the minimum requirements in Section III except 1, 3(a), 4, 9, 10, 11, 12, 13(b) and 15 through 20, and 23.

Termite prevention in slab constructed buildings can be accomplished if:

(a) All debris is removed, including grade stakes, before pouring the slab, and;

(b) The soil in the area where the slab is to be poured is pretreated heavily with chemical.

Treatment should be made as directed in the "Chemical Treatment" section below.

CHEMICAL TREATMENT

1. Apply approved chemical according to label directions in trenches around the inside and outside of foundations, pipes, duct work, piers, etc., after soil has been leveled.

2. Treat all soil surface to be covered by the structure with approved chemicals according to label directions.

3. Treat all soil surfaces to be covered by steps, porches, garage floors, carport slabs, patios or other structures adjoining the building, with approved chemicals according to label directions.

Pretreatments shall be made as directed by one or a combination of the following treatment methods

1. Chemical soil barrier treatments:

Crawl space construction approved chemical at concentration rate and volume must be applied according to label directions to establish a vertical barrier in the soil adjacent to both sides of the foundation, around piers, pipes and other construction elements that would permit termites to infest the building from the ground. Horizontal chemical barriers must be established by applying chemical at the concentration rate and volume specified by the label directions to all soil surfaces to be covered by steps, porches, garage floors, carport slabs, patios or other structures adjoining the building.

In addition to the establishment of both vertical and horizontal chemical barriers in the soil the building must meet items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 13A of the minimum requirements given for existing structures in Section IIIA. If ventilation is not provided as described in item 11 in Section IIIA, the license holder shall, in writing on the contract, notify the owner within 12 months of their acquiring ownership of the property that proper ventilation needed to comply with the minimum requirements for termite and other structural pest work was not provided at the time of construction.

Slab Construction, approved chemical at concentration rate and volume must be applied according to label directions to establish a horizontal chemical barrier in the soil under all parts of the building, adjoining steps, carports, garage floors, patios, porches, or other structures adjoining the building.

Chemical must be applied at concentration rate and volume according to the label directions in the soil adjacent to the foundation wall around the outside of the building to establish a vertical barrier in the soil. In addition to the establishment of horizontal and vertical chemical barriers in the soil the building must meet items 3b, 5, 7, 8, 12, and 13a of the minimum requirements given for existing structures in Section III A.

~~4~~ Foam Treatments; Foam application shall be of sufficient duration to apply termiticide dosage equivalent, as required by label, to liquid treatments outlined in Steps 1, 2 and 3 above. When foam is used as the carrier for chemical material, the volume of foam that is applied shall be the amount required to equal the concentration rate and volume specified by the label directions when applied as a liquid.

NOTE: ~~Specify on all~~ Contracts and graphs must specify when foam treatment is used.

NOTE: ~~On structures~~ Buildings which are ~~have~~ part slab and part crawl space, appropriate minimum requirements shall be met on each part.

2. Above ground wood treatment methods

Approved chemical must be applied to the wood according to the label directions, concentration rates and volumes. In addition crawl space buildings must meet items 1, 3, 4, 5, 6, 10, 12 and 13a. of the minimum requirements for existing structures in Section III A. If ventilation is not provided as described in item 11 in Section IIIA, the license holder shall, in writing on the contract, notify the owner within 12 months of their acquiring ownership of the property that proper ventilation needed to comply with the minimum requirements for termite and other structural pest work was not provided at the time of construction. Slab buildings must meet items 3b, 12 and 13a of the minimum requirements for existing structures in Section III A.

3. Bait treatment methods

When baits are used for pretreatment of a new building all requirements in Section III E must be met.

Note: Contracts and graphs for all pretreats must state the name of the material used. All materials used must comply with the requirements for materials given in Section III C.

SECTION III C - MATERIALS

Any pesticide or combination of pesticides approved by the United States Environmental Protection Agency, registered with the Arkansas State Plant Board and labeled for the prevention or control of termites, powder-post beetles, wood-rotting fungi or other wood destroying organisms may be used to treat structural pests provided that the pesticides are used according to the label directions.

SECTION III D - MINIMUM REQUIREMENTS FOR STRUCTURAL PEST WORK ON WOOD DECKS AND WOOD PATIOS ON EXISTING AND NEW CONSTRUCTION.

1. Chemical Treatment to wood decks and wood patios (an open platform adjoining a building, not covered by a roof and/or supported by and enclosed masonry foundation).

Approved chemicals shall be applied or reapplied according to label directions around and under wood decks and wood patios to control subterranean termites.

2. New contracts, Contract Transfers, Clearance Letters and Soil Treatment Certificate Responsibility.

Wood decks and/or wood patios are INCLUDED as part of the contract, contract transfer or clearance letter issued on an attached structure UNLESS the contract, contract transfer or clearance letter shows in BOLD PRINT that existing termite damage, or damage that occurs in the future, is NOT to be replaced on wood decks and/or wood patios. ~~A soil treatment certificate covers termite damage which occurs to wood decks and/or wood patios after the initial treatment UNLESS the soil treatment certificate shows in BOLD PRINT that such damage occurring after initial treatment is NOT to be replaced by the operator.~~

3. Replacements.

A. Operators shall not be required to replace damaged wood caused by termites on wood decks or wood patios treated ~~after the effective date of this regulation~~, even if infested with live subterranean termites, provided, that Section III D, subsection 2 above has been complied with.

B. Operators shall not be required to replace damaged wood caused by weather related rot or other lots on wood decks or wood patios.

C. Operators shall be required to replace damage caused by termites in the treated structure adjacent to the wood dec

~~D. Existing termite damage on wood decks and wood patios need not be shown on diagrams and graphs accompanying new contracts, contract transfers and clearance letters. However, the operator must comply with Section III D, subsection 2 above.~~

CLARIFICATION

A. Operators electing to issue contracts for future termite damage replacement on wood decks and wood patios, shall be held equally responsible as for any other part of a building.

B. Operators failing to comply with Section III D, subsection 2 above shall be required to make replacements as needed on wood decks and wood patios.

C. Wood decks and wood patios NOT ~~in contact with a~~ connected to a treated building are excluded from treatment or repair requirements, unless they are specifically covered by a contract for treatment and damage replacement.

SECTION III E - MINIMUM REQUIREMENTS FOR TERMITE WORK WHEN USING BAITS AS THE METHOD OF CONTROL.

1. Contracts.

~~When employed to prevent, control, or eradicate termites by the use of baits, operators in Classification One shall issue a signed contract on each job, including a diagram of each structure, which guarantees the performance of the work for a period of not less than 2 years and a provision for renewal annually, at the consumers option, for an additional 3 years. Said IN addition to requirements specified in SECTION II item 1, Contracts must specifically state the initial number of bait stations that are to be installed and the frequency upon which an inspection of the bait placements or monitoring stations are to be performed. The diagram must show the location of termite or other structural pest infestations, if present, location of damaged areas, and an outline of the work to be carried out. Before any work is performed a copy of the contract or start work agreement and a copy of the diagram indicating the location of the initial bait placements shall be given to the property owner.~~

2. Treatment.

The Materials, baits, monitoring stations, and matrix's shall be applied and maintained according to label directions and schedule specified in the contract.

3. Replacements / Exclusion of Existing Damage

A. Wood ~~which has been~~ substantially weakened by termites, powder-post beetles or decay fungi (rot) should be replaced. Replacements may be made by the operator or the property owner, or both.

Replacements of damage caused by termites or powder-post beetles for which the operator is not to be responsible must be specifically excluded in writing by:

- (1) Describing the excluded replacements in the contract and stating therein that they are not to be made by the operator.
- (2) Showing their location on the diagram of the structure and;
- (3) ~~Noting these replacements as an exception to item 12 on Form 905, and~~
- (4) Noting that the replacement of uninfested hidden damage (that which cannot be seen by thorough visible inspection without defacing the property) at or above the subfloor, which is not covered by (1), (2) ~~and (3) and~~ which was caused by an infestation occurring prior to the operator's first treatment of the property or the issuance of a letter of clearance, shall not be the responsibility of the operator.

B. The operator license holder shall be requested-required to replace substantially weakened wood which has been damaged by termites, on buildings covered by a contract providing a guarantee for retreatment and replacement of termite damage, when inspectors find active termites associated with the damaged wood and / or visible damage not excluded as required in paragraph A. This is true regardless of the type of contract issued on the property. C. Replacement of wood weakened by decay fungi (rot) shall not be the ~~operators~~ license holders responsibility, unless they have entered-into an agreement to control this pest provided they have stated that the owner is provided written notification in bold print that a condition exists to the substructure which is favorable to decay fungi and possible damage due to rot, on the termite or powder-post beetle control contract, graph, and letter of clearance, if issued.

~~Exception: Item 3 does not apply when the contract issued gives a guarantee to apply or reapply pesticides only for the control of termites.~~

SECTION IV - HOUSEHOLD PEST AND RODENT CONTROL (CLASSIFICATION 2).

Household Pest and Rodent Control shall consist of the control of any mammal, bird, arthropod, ~~or~~ reptile or other organism that may infest or invade a home or other buildings or the immediate area around or under these homes or buildings or other areas, other than wood-damaging or destroying insects, fungi or organisms. Holders of a license in this classification shall not be required to qualify in classification ~~44~~ 7, Food Manufacturing, Processing and Storage Pest Control, to perform food related pest and rodent control. Any person wishing to perform food related pest and rodent control for more than one person, company or corporation, however, must be licensed in this classification rather than classification ~~44~~ 7.

The Plant Board will investigate complaints against license holders, and ~~will check on~~ monitor each operator's work from time to time, and may invalidate a license for fraud, misrepresentation, Failure to carry out ~~promises~~ contracts, use of improper methods or materials, or other reasons specified in the law.

~~The handling of rodenticides containing Compound "1080," Thallium Sulfate, Arsenic Trioxide, Sodium Arsenite, etc., shall be done by licensed personnel only and shall be done in compliance with the following safety rules:~~

~~Safety Precautions for Rodent Control with Highly Poisonous Materials, Including Compound "1080," thallium Sulfate, Arsenic Trioxide, Sodium Arsenite, etc.~~

- ~~1. Compound "1080" shall never be used inside a residence.~~
- ~~2. When poisons are used around a residence, never use baits that will attract children or pets.~~
- ~~3. Liquid poisons containing Compound "1080" or highly poisonous materials shall never be placed in such a manner so they will spill or drop on food or feed stuffs. When liquid poison is used in establishments housing food for human consumption or food stuffs, the~~

~~material shall be placed in watering cups securely fastened inside locked bait boxes, which have openings small enough that only rodents or other small animals can enter them. The boxes shall be clearly labeled "poison," with skull and cross bones, giving the name of poison used and antidote. These locked bait boxes shall be visited often enough to prevent a dangerous buildup of the toxic materials placed in them. All dead rodents should be picked up daily and burned or buried at least 24" deep. Unused poison shall be disposed of in the same manner as dead rodents.~~

~~If liquid poison is place in establishments housing food or feed stuffs in open containers, these shall be numbered and a record kept to make sure one of them is not left in the building when poisoning is completed. They shall be placed in the building at the end of the day's business hours and shall be picked up the following morning before establishment is opened for business. Dead rodents, empty containers and unused poison shall be disposed of as Stated above.~~

~~4. When outside baiting is done, only baits which will not attract children or pets shall be used, and these shall be placed in areas which are not accessible to children.~~

~~5. Never leave Compound "1080" or other highly poisonous materials with persons not acquainted with the hazards involved in their use.~~

~~6. Extreme caution shall be used in all cases when Compound "1080" or other highly poisonous materials are used.~~

~~SECTION V -TREE SURGERY (CLASSIFICATION 4);~~
~~ORNAMENTAL TREE AND TURF PEST CONTROL (CLASSIFICATION 5 4);~~
~~WEED CONTROL (CLASSIFICATION 6 5);~~
~~GOLF COURSE PEST CONTROL (CLASSIFICATION 7 6);~~
~~PECAN PEST CONTROL (CLASSIFICATION 8);~~
~~FRUIT TREE PEST CONTROL (CLASSIFICATION 9);~~
~~VINEYARD PEST CONTROL (CLASSIFICATION 10)~~

1. The Plant Board will investigate complaints against license holders and may cancel license for fraud, misrepresentation, failure to carry out promises, use of improper methods or materials, or other reasons specified in the law.

~~NOTE: Tree Surgery includes cavity filling and/or repair, bracing, cabling, and wound treatment (wounds made and treated during pruning not included). No license is required for pruning, feeding, budding or grafting.~~

SECTION VI - GENERAL FUMIGATION (CLASSIFICATION 3)

Holders of a license in this category shall not be restricted as to where they may perform in performing ~~needed~~ fumigations nor shall they be required to qualify in Classification ~~42~~ 8, Food Related Fumigation, to perform food related fumigation. Any person wishing to perform food related fumigation for more than one person, company or corporation, however, must be licensed in this category rather than classification ~~42~~ 8.

~~1. Fumigation may be done only by operators having a license for Classification 3.~~

~~2. When a building is to be fumigated, license holder must notify Plant Board, so that notice will be received at least 24 hours in advance of start of fumigation, giving location of building and date and hour on which fumigation will be commenced. Notice must be accompanied by inspection~~

~~fee of \$10.00. If possible, Plant Board will send inspector to be present at fumigation. If inspector does not arrive at stated hour, operator may proceed with fumigation. If no inspection is made during the course of the fumigation, Plant Board will refund inspection fee.~~

~~3. There shall not be less than two men, one of whom must be a competent and experienced fumigator, present at the time of releasing the fumigant and during the initial ventilation. During the interim, the premises must be adequately safeguarded against entry by any human being.~~

~~4. Prior to fumigation of any building or other enclosed space, the licensee shall notify the local law enforcement and fire departments, giving the address of the fumigation job, time of gas release, kind of gas to be used, and time of beginning of aeration of premises~~

~~5. Premises to be fumigated shall be sealed in such a manner as to confine the fumigant to the space intended to be fumigated.~~

~~6. Immediately before releasing the fumigant, the fumigator shall conduct a thorough inspection of the premises to verify that no human beings or pets remain therein, and that effective precautions have been taken to safeguard occupants of neighboring buildings, set forth below.~~

~~7. All apartments within a multiple unit must be vacated during fumigation of any apartment in the unit.~~

~~8. All dwellings or places of business within 10 feet of the building being fumigated must be notified, in writing in advance of such fumigation and all premises within ten (10) feet must be vacated during the fumigation and aeration periods.~~

~~9. Warning signs shall be posted conspicuously at all entrances of premises to be fumigated and kept there during the entire fumigation and ventilation period. Warning signs shall also be posted at the entrance of all adjacent multiple units and structures within ten feet as described in these regulations. Such signs shall not be less than 10 inches x 12 inches, printed in red on black or white stock, display skull and crossbones, display the words "DANGER" and "POISON GAS" in 2" letters, display the name of the fumigant used and the name, address and telephone number of the fumigator. Before the fumigant is released, safety devices shall be applied to all entrances except exits to be used by the fumigating crew. Such exits shall be secured in a like manner promptly after the fumigant has been released.~~

~~10. All persons of the fumigating crew must be equipped with a serviceable mask, of a type approved by the U.S. Bureau of Mines, with correct canister for the type of gas used, and shall wear such masks while in the enclosed space during and after liberation of the gas, until initial ventilation is completed. There shall be available, during every fumigation, antidotes appropriate to the type of fumigant used.~~

~~11. No one, other than the fumigator, shall be permitted to re-enter the fumigated premises until the fumigator shall have ascertained, by personal inspection, and suitable test, that the premises are safe for re-occupancy without a gas mask.~~

~~12. All cylinders of liquid HCN shall be stored in cool, well-ventilated places, shaded from the sun. Liquid HCN cylinders shall at no time be stored in any occupied building.~~

~~13. Exceptions: Notification of the Plant Board does not apply to the fumigation of box cars or trucks, or to the use of fumigants to control insects or other pests outside of buildings or to spot or restrictive treatment inside a building. During spot or restrictive fumigation, however, and during the ventilation period, the premises shall not be occupied except by the fumigator. A warning gas is recommended where the fumigant is comparatively odorless.~~

SECTION VII - FOOD RELATED PEST CONTROL

(CLASSIFICATIONS ~~11 AND 12~~ 7 AND 8)

Classification ~~11~~ 7 - Food Manufacturing, Processing and Storage Pest Control

A Commercial Applicator Certificate shall be issued in this classification to employees of large scale, primarily wholesale food manufacturing, processing and storing companies or corporations. ~~Said~~ Employees shall be restricted to pest control work at the company address or addresses stated on the Commercial Applicator Certificate. Any person performing pest control work for more than one company shall qualify and be licensed, bonded, and insured under classification two, Household Pest and Rodent Control, rather than in this classification. The ~~company~~ companies or corporations and the employee shall be jointly and severally responsible for the proper use of pesticides by the employee. The Commercial Applicator Certificate shall be subject to denial, suspension or invalidation for any or all grounds stated in ~~Act 488 of 1975~~ AR Code Annotated §17-37-101 as amended or these regulations.

Classification ~~12~~ 8 - Food Related Fumigation

A Commercial Applicator Certificate shall be issued in this classification to employees of large scale, primarily wholesale food manufacturing, processing and storing companies or corporations. Said employees shall be restricted to fumigation at the company address or addresses stated on the Commercial Applicators Certificate. Any person performing food related fumigation for more than one company shall qualify and be licensed under Classification ~~three~~ 3, General Fumigation, rather than in this classification. The company or corporation and the employee shall be jointly and severally responsible for the proper use of fumigants ~~by the employee~~. The Commercial Applicator certificate shall be subject to denial, suspension or invalidation for any or all grounds stated in ~~Act 488 of 1975~~ AR Code Annotated §17-37-101 as amended or these regulations.

SECTION VIII - NON-COMMERCIAL ORNAMENTAL TREE AND TURF PEST CONTROL (CLASSIFICATION ~~13~~ 9A); ORNAMENTAL WEED CONTROL (CLASSIFICATION ~~13~~ 9B); GOLF COURSE PEST CONTROL (CLASSIFICATION ~~14~~ 10)

Classification ~~13~~ 9 A - Ornamental Tree and Turf Pest Control

Classification ~~13~~ 9 B - Ornamental Weed Control

A Non-Commercial Applicator Certificate (not a license) shall be issued in either or both classifications to employees of Federal, State, County, or Local Government. Said employees shall be restricted to pest control work on property owned or under control of Federal, State, County or Local Governments. ~~The~~ Federal, State, County or Local Governments and ~~the~~ their employees shall be jointly and severally responsible for the proper use of pesticides ~~by the employee~~. A Non-Commercial Applicator shall not perform pest control services for more than one governmental agency or any other entity without having fully qualified and become licensed as a Commercial Applicator, Classifications ~~5~~ 4 - Ornamental Tree and Turf Pest Control or ~~and 6~~ 5 - Ornamental Weed Control. The Non-Commercial Applicator Certificate shall be subject to denial, suspension, or invalidation for any or all grounds stated in ~~Act 488 of 1975~~ AR code Annotated §17-37-101 et seq. as amended or these regulations.

Classification ~~14~~ 10 - Golf Course Pest Control

A Non-Commercial Applicator Certificate (not a license) shall be issued in this classification to employees of the owner or owners of ~~a~~ specific golf courses. Said employees shall be restricted to pest control work on courses owned or under control of said golf owner or owners. The golf course owner or owners and the employee shall be jointly and severally responsible for the proper use of pesticides ~~by the employee~~. A Non-Commercial Applicator shall not perform pest control service for more than one golf course without having fully qualified and become licensed as a Commercial Applicator in Classification ~~7~~ 10 - Golf Course Pest Control. The Non-Commercial Applicator Certificate shall be

subject to denial, suspension or invalidation for any or all grounds stated in ~~Aet 488 of 1975~~ AR code Annotated § 17-37-101 et seq. as amended or these regulations.

**SECTION IX: ARKANSAS STATE PLANT BOARD
PEST CONTROL ENFORCEMENT RESPONSE REGULATIONS**

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I X. STATEMENT OF PURPOSE

Pesticides are valuable to Arkansas' agricultural production and the protection of man and his possessions from insects, rodents, weeds, plant diseases, and other pests. It is essential to the public health and welfare that pesticides be used properly to prevent adverse effects on man and the environment.

The purpose of the regulation is to provide a fair and consistent mechanism by which compliance with the Arkansas Pest Control Law, as amended, and the regulations written pursuant thereto can be achieved.

H XI. DEFINITIONS

As used in this policy:

- A. **Base ~~Fine~~ Civil Penalty:** The midpoint of a civil penalty range. [Example: The civil penalty range for failure to report structural pest control work ~~refusal to keep proper records~~ (1st level of enforcement) is ~~\$100.00 to \$500.00~~ \$200.00 to \$400.00. The base ~~fine~~ penalty is \$300.00]
- B. **Case Development Review Panel:** An internal committee of staff including: 1. the Plant Industry Division Director or his/her designee, 2. the Agency Assistant Director or his/her designee, and 3. the Agency Director or ~~the Director's~~ his/ her designee. The Case Development Review Panel will carefully review all case documentation to insure completeness and to insure that the recommended enforcement action is appropriate.

- C. **Level of Enforcement:** The category by which a violative incident is considered a first, second, third, or fourth offense.

For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation for which a previous enforcement action has been taken by the Plant Board. The previous violation/violations must have occurred within the past 3 years.

- D. **Minor Violation:** A violative incident which does not involve human health, safety, or endanger the environment; or other incidents of non-compliance which do not create a competitive disadvantage for licensees in full compliance.

- E. **Major Violation:** A violative incident which affects human health, safety, or the environment; or other incidents of non-compliance which create a competitive disadvantage over licensees in full compliance; or a history of repetitive violative incidents.

*In no case shall the failure to meet minimum ~~treating standards (Act 488 of 1975 requirements for structural pest work~~ (Sections III A, III B, III C, and III D) adopted under the authority of Ar. Code 17-37-105, except those which require a termiticide application, be considered a violation and subject to a civil penalty.

- F. **Respondent:** A person charged with a violation of the Arkansas Pest Control Law as amended, and the regulations written pursuant thereto.

~~III~~ XII.

LEGAL AUTHORITY

- A. "Arkansas Pest Control Law" A.C.A. 17- ~~30~~ 37-101 et. seq. and Regulations.
- B. "The Arkansas Plant Act" A.C.A. 2-16-203 et. seq. and Regulations.

~~IV~~ XIII.

ENFORCEMENT ACTIONS

Under the preceding Arkansas Codes, the Plant Board has several options for enforcement action. These are:

- A. **Warning Letter:** For minor, 1st level of enforcement violations, the Board or Board Staff will issue a warning letter. The letter will cite the specific violation. The letter will also identify any corrective action that may be needed and notify the respondent that further violations will result in more severe enforcement action.
- B. **Informal Agreement:** When a violation has been alleged, the respondent has the option of an informal hearing or a board/committee hearing. The purpose of the informal hearing is to resolve a complaint or incident. A hearing officer will meet jointly with the respondent and Plant Board Staff. The group will seek consensus on an appropriate enforcement action for recommendation to the Board. Enforcement action based on the Penalty Matrix (Appendix A) will include Civil Penalty and/or license suspension, revocation, non-renewal, or registration cancellation. The Full Board acts on all recommendations resulting from the informal hearing.

- C. **Board/Committee Hearing:** If the respondent chooses to bypass the informal agreement process, or if an agreement can not be reached during the informal hearing, a hearing will be held by the Pest Control Committee of the Board. Enforcement action will include Civil Penalty and/or license suspension, revocation, non-renewal, or registration cancellation. Following the Committee hearing, a written Finding of Fact, Conclusion of Law, and recommendation will be submitted to the Board. The Full Board will act on all recommendations of the Committee.
- D. **Suspension / revocation / non-renewal of a license or registration:**
The suspension, revocation, or non-renewal of a license by the Board may be in addition to or in conjunction with a civil penalty fine.
- E. **Injunction:** The Board may apply for an injunction to any court of competent jurisdiction for violations of the Pest Control Law. The court, upon hearing and for cause, has the option of temporary or permanent injunction restraining any person from violating any provisions of The Arkansas Pest Control Law and regulations.
- F. **Referral to Prosecuting Attorney:** The Plant Board has the option of referring violations of the Pest Control Law to the prosecuting attorney.
- G. **Referral to EPA:** The Plant Board will negotiate cases of referral with EPA to determine the appropriate action.
- H. **Referral to Pesticide Division :**
The pest control section will refer, the operation of faulty or unsafe equipment, and for distribution of adulterated and/or misbranded pesticides cases to the pesticide division of the AR. State Plant Board.

¶ XIV.

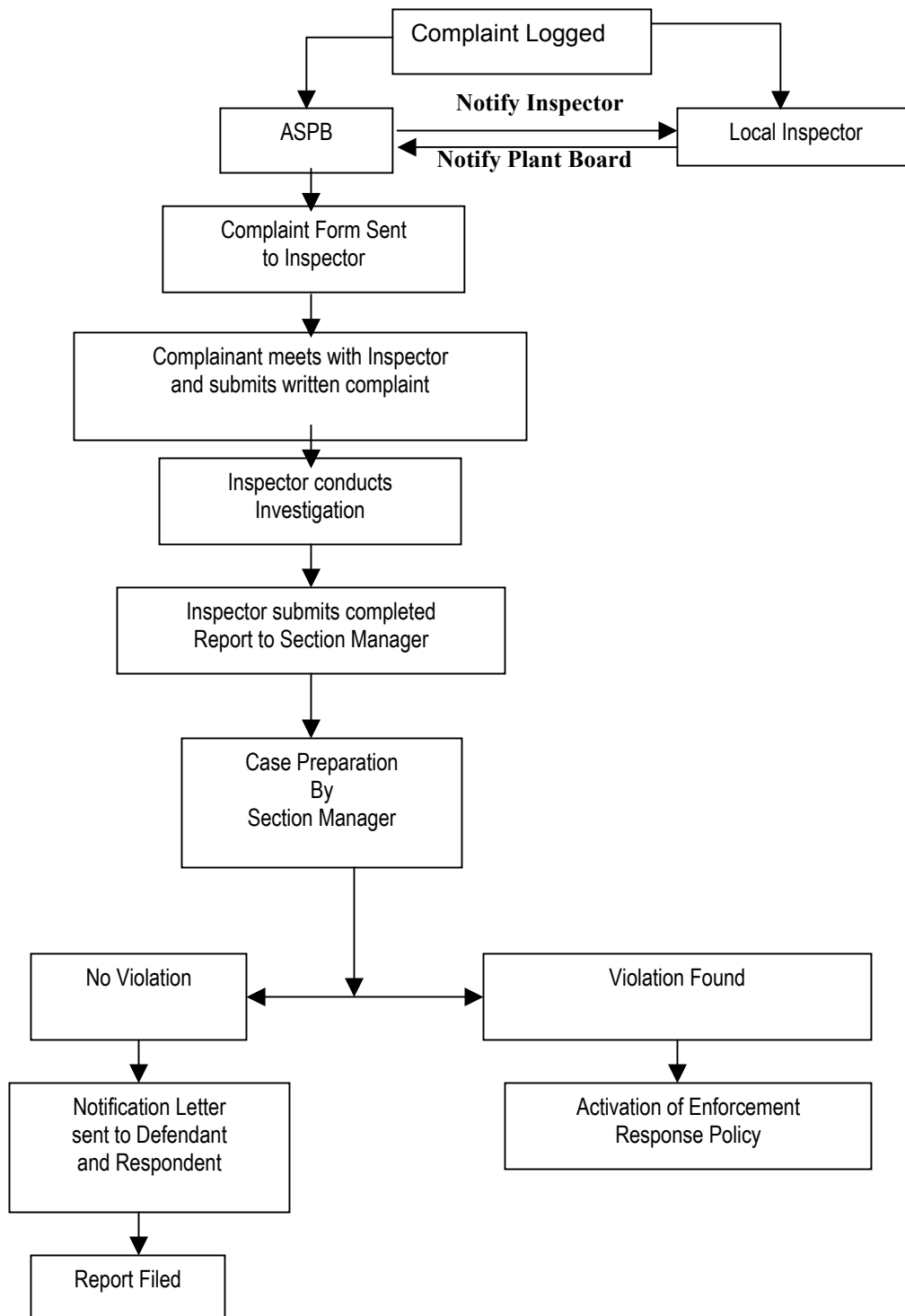
INCIDENT INVESTIGATION

An incident investigation will be initiated when:

- A. Routine compliance monitoring indicates a violation has occurred.
- B. A formal complaint that an alleged violative incident has occurred. (Filing of written form by a complainant). In cases of apparent immediate endangerment to health or the environment, the written notification may be waived and the investigation of the alleged incident will begin immediately).
- C. Possible human exposure to pesticides is assigned priority status.

The processing sequence for an incident investigation is outlined in Figure I.

FIGURE I
Processing Sequence



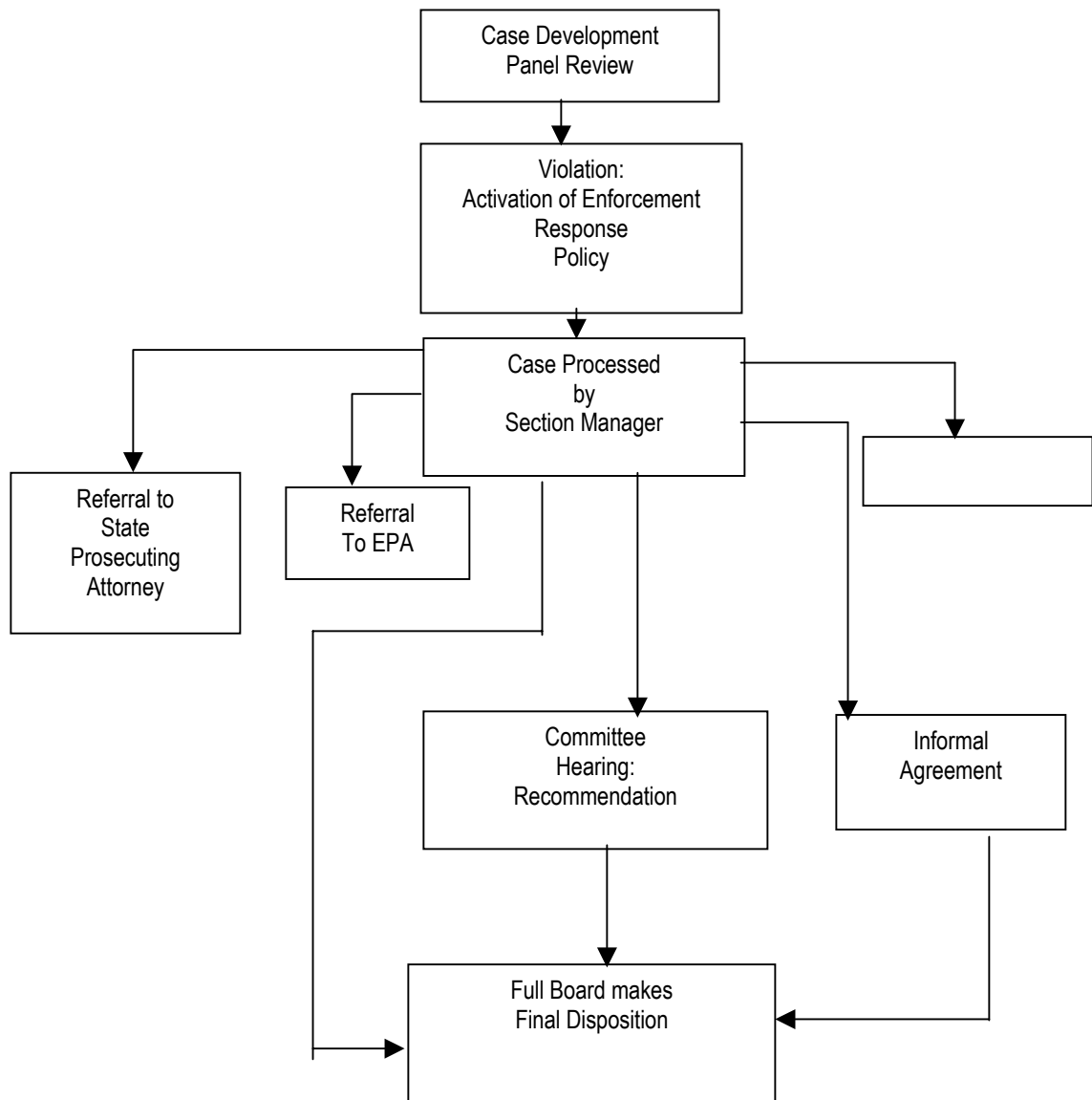
~~VI.~~ XV. ACTIVATION OF ENFORCEMENT RESPONSE POLICY

An apparent violation of law and/or regulation must be documented to initiate an enforcement action.

Documentation must conform to the requirements of the Plant Industry Division.

The sequence of events within the enforcement response policy is as follows.

FIGURE II



~~VII~~ XVI. INTERNAL REVIEW

The Case Development Panel will carefully review all documentation and records to determine:

- A. That apparent violation / violations have occurred.
- B. Whether the apparent violation or violations are **Minor** and/or **Major** violations.
- C. The correct level of enforcement based on the penalty matrix and the documented History of the respondent.

Concurrence with the Division's finding by the Panel must be unanimous before further action can be taken on the case.

~~VIII~~ XVII. HEARINGS

The informal hearing officer and/or the appropriate Committee and/or the Full Board will carefully review the documentation and hear cases of alleged violations.

Should it be determined a violation(s) has occurred, the severity and level of enforcement of each violation will be determined by the three (3) factors in Section VII; as they are applied to the Penalty Matrix (Appendix A).

If a violation is determined in this sequence; the following factors will be considered:

- A. Cooperation of the respondent.
- B. Other extenuating/mitigating circumstances.

The Hearing Officer/Committee/Board may use these factors to accelerate or mitigate enforcement action. When a civil penalty is the preferred action, the base ~~fine~~ penalty may be increased or decreased based on these factors. The civil penalty will not be more or less than the range for the specific violation listed in Appendix A.

The Full Board will take action to determine the final disposition of the case.

~~IX~~ XVIII. RIGHT OF APPEAL

Any person aggrieved by any action of the Plant Board may obtain a review thereof, by filing in circuit court within 30 days of notice of the action, a written petition praying that the action of the Plant Board be set aside.

APPENDIX

A

A PENALTY MATRIX

PENALTY MATRIX

APPENDIX A

VIOLATION	Violation Level	1 st Level of Enforcement		2 nd Level of Enforcement		3 rd Level of Enforcement		4 th Level of Enforcement	
		Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)
1. Failure to secure an applicator license	Minor	A							
	Major	B,C,E,F	200-1000	B,C,E,F	400-1000	B,C,E,F	600-1000	B,C,E,F	800-1000
2. Pesticide recommendations or applications which are inconsistent with any/or all of the following: (A) Labeling (B) Federal or State registrations (C) Federal or State restrictions of the use of a pesticide	Minor	A		B,C	200-400				
	Major	B,C,G	200-400	B,C,G	400-600	B,C,D,G	600-800	B,C,D,E,G	800-1000
3. Intentional misrepresentation(s) in any application for a license.	Minor								
	Major	B,C	200-400	B,C	400-600	B,C	600-800	B,C,E	800-1000
4. Misrepresentations for the purpose of deceiving for defrauding.	Minor								
	Major	B,C,D	200-400	B,C,D	400-600	B,C,D	600-800	B,C,D	800-1000
5. Making a false statement with knowledge of its falsity for the purpose of inducing others for act there on to their damage.	Minor								
	Major	B,C,D	200-400	B,C,D	400-600	B,C,D	600-800	B,C,D,E	800-1000

ENFORCEMENT ACTION OPTIONS

A - Warning letter
 B - Informal Agreement
 C - Board/Committee Hearing
 D - Suspension/Revocation of License

E - Injunction
 F - Referral to Prosecuting Attorney
 G - Referral to EPA
 H - Referral to Pesticide Division

PENALTY MATRIX

APPENDIX A (con't)

<u>VIOLATION</u>	Violation Level	1 st Level of Enforcement		2 nd Level of Enforcement		3 rd Level of Enforcement		4 th Level of Enforcement	
		Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)
6. Performing work, with or without compensation, in a classification for which the licensee does not hold a license.	Minor								
	Major	B,C,D,E,F	200-1000	B,C,D,E,F	400-1000	B,C,D,E,F	600-1000	B,C,D,E,F	800-1000
7. Falsification of records or failure to maintain or make available all records required by this Act	Minor	A		B,C	200-400				
	Major					B,C	600-800	B,C,E	800-1000
8. Failure of licensee to supply the Board or its authorized representative, upon request with true and accurate information concerning methods and materials used on work performed.	Minor	A		B,C	200-400				
	Major					B,C	600-800	B,C,E	800-1000
9 Failure of licensee to register agents or solicitors, or failure to pay registration inspection or reporting fees due or failure to make reports within the time specified	Minor	A		B,C	200-400				
	Major	B,C	200-400	B,C	400-600	B,C,D	600-800	B,C,D,E	800-1000

ENFORCEMENT ACTION OPTIONS

A - Warning letter
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PENALTY MATRIX

APPENDIX A(con't)

VIOLATION	Violation Level	1 st Level of Enforcement		2 nd Level of Enforcement		3 rd Level of Enforcement		4 th Level of Enforcement	
		Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)	Enforcement Action	Civil Penalty (Fine-\$)
10. Failure to report structural pest control work.	Minor	A		B,C	100-400				
	Major	B,C,D	200-400	B,C,D	400-600	B,C,D	600-800	B,C,D,E	800-1000
11 Failure to correct substandard work.	Minor								
	Major	B,C,D	200-400	B,C,D	400-600	B,C,D	600-800	B,C,D,E	800-1000
12. Failure of licensee to obtain satisfactory control of the pests or diseases which the licensee engages to control or eradicate as evidenced by repeated inspections by the Board.	Minor	A		B,C	200-400				
	Major					B,C,D	600-800	B,C,D,E	800-1000
13. Conviction of any court of a violation of this chapter or of FIFRA.	Minor								
	Major	B,C,D	200-400	B,C,D	400-600	B,C,D,G	600-800	B,C,D,E,G	800-1000
14.Operation of faulty or unsafe equipment.	Minor	H							
	Major	H	200-600	H	400-800	H	600-1000	H	800-1000
15. Distribution of adulterated and/or misbranded pesticides.	Minor	H							
	Major	H	200-600	H	400-800	H	600-1000	H	800-1000

ENFORCEMENT ACTION OPTIONS

A - Warning letter
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